

Anteheads

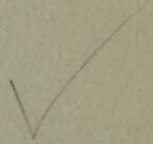
Trials

REPORT

Compliments of
DR. GEO. REULING.
79 W. MONUMENT ST.

OF THE PROCEEDINGS

IN THE CASE OF

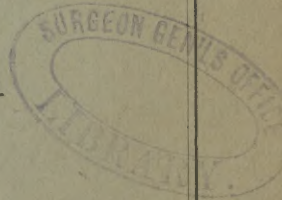


RUTHS vs. REULING,

TRIED IN THE

CIRCUIT COURT OF HOWARD COUNTY, MD.

MARCH TERM, 1880.



BALTIMORE:

Globe Steam Print, Light & German Sts.

1880.

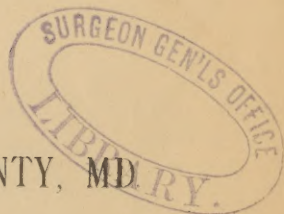
REPORT
OF THE PROCEEDINGS
IN THE CASE OF
RUTHS vs. REULING,

TRIED IN THE
CIRCUIT COURT OF HOWARD COUNTY, MD.

MARCH TERM, 1880.

BALTIMORE:
Globe Steam Print, Light & German Sts.

1880.



REPORT

OF THE PROCEEDINGS

IN THE CASE OF

RUTHS vs. RUTLING

PRINTED BY

FOR THE COURT OF HOWARD COUNTY, MD.

MAY 1 1870

The following pages contain the substance of a long law-suit for alleged surgical malpractice, and the object of this publication is, so far as possible, to protect the medical profession from similar attacks in the future. A painful feature in this case, was, that testimony was introduced tending to prove a physician was the instigator of the proceedings, and was the chief professional prompter of the plaintiffs in the case, and no attempt was made by the party affected by this proof to meet it by a denial.

IN THE BALTIMORE CITY COURT, } To Wit:
BALTIMORE CITY.

William Ruths, by John T. Mason, R., his attorney, sues George Reuling for that the plaintiff, at the defendant's request, retained and employed the defendant as a surgeon and oculist to attend upon the plaintiff's wife, and to endeavor to cure her of a disease under which she labored, for a reward.

And the defendant accepted and entered upon the said retainer and employment; yet the defendant conducted himself in an ignorant, unskillful and negligent manner in that behalf, so that the sight of the plaintiff's wife was destroyed, whereby the plaintiff lost the services of his wife, and he incurred expenses in medical and other attendance to endeavor to cure her.

And the plaintiff claims \$10,000

JOHN T. MASON, R.,
Attorney for the Plaintiff.

To this the defendant, by his attorney, Robt. D. Morrison, Esq., pleaded "not guilty."

On the 5th of December, 1878, a second declaration was filed:

IN THE BALTIMORE CITY COURT, } To Wit:
BALTIMORE CITY.

William Ruths and Margretta Ruths, his wife, sues George Reuling for that the plaintiff, at the defendant's request, retained and employed the defendant as surgeon and oculist to attend upon the plaintiff Margretta, and endeavor to cure her of a disease under which she then labored, for a reward; and the defendant, in consideration of being paid for his skill and labor, accepted and entered upon said retainer and employment, and undertook and promised to cure the plaintiff Margretta. Yet, the defendant not regarding his promise and undertaking, and the duty

of his business and employment, conducted himself in an ignorant, unskillful and negligent manner in that behalf; whereby the said Margretta became worse, and was entirely deprived of her eye-sight, and suffered great pain, and was prevented from following her usual employment, and her recovery from the said disease rendered impossible.

This declaration was afterwards amended by the addition of the following count:

And for that the defendant was a surgeon and oculist, and was employed as such surgeon and oculist for a certain reward to be to him therefor paid, to treat, attend to, and cure the plaintiff Margretta of a disease under which she then labored. And that the defendant, in consideration of being paid for his skill and labor, accepted and entered upon said retainer and employment, and undertook and promised to cure the plaintiff Margretta. Yet the defendant, not regarding his promise and undertaking, and the duty of his business and employment, conducted himself in an ignorant, unskillful and negligent manner in that behalf; whereby the said Margretta became worse, and was entirely deprived of her eye-sight, and suffered great pain, and was prevented from following her usual employment, and her recovery from the said disease rendered impossible.

And the plaintiff claims \$10,000.

JOHN T. MASON, R.,

Attorney for the Plaintiff.

To this also the defendant, by his attorney, Robt. D. Morrison, Esq., pleaded "not guilty."

Issue was joined in both cases, and in November last they came up for trial in the Baltimore City Court, his Honor, Judge Henry F. Garey, presiding. Prior to this, however, on the 15th of May, 1879, an agreement was entered into by Messrs Mason and Morrison to waive all errors of pleading, and to allow either party to prosecute or defend as they could in any state of the pleading. The cases were tried, and the jury disagreed. Mr. Joseph Packard appeared with Mr. Mason for the plaintiffs.

A suggestion of removal being afterwards made and the necessary affidavit filed, the cases, on the 20th of February, 1880, were removed to Howard county. There they came up for trial on the 28th of March, and it is the proceedings had on that occasion, which it is the purpose of this pamphlet to record. The trial lasted five days. The counsel were

Judge William M. Merrick, and Messrs. Packard and Mason for the plaintiffs; and Messrs. Chas. Marshall and Robt. D. Morrison, of Baltimore city, and ex-State's Attorney Henry E. Wootton, of Howard county, for the defendant. Hon. William N. Hayden presided on the first day, after which Judges Miller and Hayden presided.

A jury being sworn, Mr. Mason made the opening statement in behalf of the plaintiffs:

"Gentlemen of the jury," said he, "we are able, we think, to prove to you the following facts: On the 4th of July, 1875, Mrs. Ruths, one of the plaintiffs in this case, and her daughter, went to see Dr. Reuling at his office on Charles St., to consult him about her left eye. She said to him that there was some kind of a trouble in it, an itching sensation, as if there was sand in it, and that while she could see with it perfectly well, she yet wanted the trouble in it, whatever it was, removed. Dr. Reuling examined the eye and told Mrs. Ruths that she had a cold in it and that a slight operation would be necessary; that he could cure her in two or three days, at which time she would be able to attend to her duties, go to market and wherever she wanted to. He also examined the right eye and pronounced it as good as his. Mrs. Ruths then asked him what he would charge. He replied seventy-five dollars. Thinking this too much, she or her daughter said something about going to see Dr. Frank. To this the defendant objected. He remarked that what Dr. Frank would do he would do, and told her to send her husband to see him and that all would be well. Mr. Ruths called the next day, and the fee was fixed at thirty dollars. On the 6th of July, Mrs. Ruths, accompanied by her husband, went to have the operation performed. Of what happened afterwards we know but little. Mr. Ruths, at Dr. Reuling's request, returned home; his wife was taken to the operating room, chloroform was applied, and of course, she knew no more until she awoke to consciousness. She then found that both eyes were bandaged. She asked the doctor what this meant. He replied that he had found it necessary to operate on both eyes and had done so; and that he did it on his own responsibility. He afterwards made the same remark to the witnesses whom we shall produce before you. Mrs. Ruths has not seen since the operation. For all practical purposes she is blind, her only power of vision being that of barely distinguishing with her right eye between day and night. After being at the Infirmary three weeks, she returned home, where she has since remained.

We shall contend, gentlemen, that the operation on the right eye was wholly unauthorized; that not only was she not told that there was any-

thing the matter with it, but the doctor told her that there was nothing the matter with it; and we shall contend that the operation was the cause of her blindness. If we succeed in establishing these facts to your satisfaction, we shall expect from you a liberal verdict in our favor. There are two cases: that of Ruths and wife against Dr. Reuling, and that of Ruths singly. They will be tried together."

Mr. Morrison opened for the defendant as follows:

GENTLEMEN OF THE JURY:

I think that the evidence will disclose to you a very different state of facts from that which you have just listened to in the opening of counsel for the plaintiff. The facts as we expect to show them to you are these:

On the 4th day of July, 1875, Mrs. Ruths, with her daughter, visited Dr. Reuling at his office, and stated that she was suffering pain in her left eye, and asked the doctor to examine it. The doctor examined both of her eyes with the ophthalmoscope, and discovered that she was afflicted with a disease known as Glaucoma, which disease is one of the most serious and, at the same time, one of the most treacherous known to the profession. It is a disease which, unless stayed by a peculiar operation called Iridectomy, must inevitably result in total blindness. It is absolutely incurable. No sight which has been lost can be restored by the operation, but all that can be done, is to stay the progress of the disease at the point which it has reached at the time of the operation, and thus preserve the sight which remains to the patient. The rule that a patient suffering from Glaucoma must become inevitably blind without the intervention of this operation is one, it is believed, to which no single exception has ever been known to the profession. The time which the disease takes in which to run its course, varies from a few moments to eighteen months, or two years. Rare cases have been known in which the sight has lasted beyond that period. It is a singular characteristic of the disease that a person may have been afflicted with it for some time without being aware of the fact. Its effect is gradually, except in few cases, to contract the field of vision, while the power of direct sight may remain but little, if at all affected. Cases have been known in which the victim has become blind almost instantaneously. Persons sometimes retire at night with no indication of the presence of this disease, and wake up in the morning, blind.

It was with this disease that this poor woman was afflicted, when she visited Dr. Reuling. The doctor's examination disclosed the fact that the

left eye was already nearly gone, and that the disease was incipient in the right eye; and your attention will be especially directed to the circumstance that until about eight days before Mrs. Ruths had never had any trouble with her eyes. Dr. Reuling told her that an operation would be necessary and for her to return on the next day, prepared to remain in his Infirmary for three weeks, and that he would then operate on the left eye, and a few days afterwards, he would operate on the right. Mrs. Ruths complained of having suffered great pain in her left eye, so great that she had been unable to rest day or night, and the doctor told her that he would operate on the left eye first, not with any hope of preserving the sight of that eye, but simply to relieve her great pain, so that she might get a few nights sleep, and be in better physical condition for an operation on the other eye, from which good results were hoped. Some talk was had about the terms, but nothing was agreed upon in this respect, the doctor telling her to send or bring her husband to see him.

On the 6th day of July, the husband came with his wife and daughter and asked the doctor what would be his terms, and the doctor asked him if seventy-five dollars would be too much. He said it would, giving certain reasons why, not necessary to notice now, and the doctor told him that he would charge him nothing for the operation itself, but that, as his wife would be under his care for about three weeks, he would charge him thirty dollars, ten dollars per week, for her board, medicines and nursing during that time. It had transpired that Mrs. Ruths and Dr. Reuling were from the same town in Germany, and the kindest feelings between the parties existed from the beginning.

On the occasion of the visit of the 6th of July, the doctor examined the eyes of Mrs. Ruths, and discovered that the Glaucoma in the left eye had become total, and its progress in the right eye was decidedly marked, the field of vision in this eye having been reduced by one-third, and the eye-ball having become perceptibly harder. On the 4th of July, after the first examination, the doctor had entered in his book a statement of the condition of each eye, and on the 6th, the sight in the left eye having entirely disappeared, he added to the description made of the condition of that eye on the 4th the letter "t," indicating total Glaucoma.

Mrs. Ruths was taken to her room, the father and daughter returning home. After Mrs. Ruths was prepared by the nurse for the operation, Dr. Reuling, accompanied by Dr. Munnikhuysen, who was also an oculist of skill and experience, proceeded to perform it. He first asked her to let him try the operation without the use of chloroform, but she strenuously objected, and begged him to render her unconscious.

The doctor administered to her an anæsthetic, either chloroform or a mixture of chloroform and ether, which produced upon her an effect most startling to the attendants. She collapsed to such a degree that for some little time the physicians thought her dead. They resorted to all the means known in such cases to restore animation, and, after a little time, she breathed again and became in good condition for the operation. The operation was performed first on the left eye, and Dr. Reuling then stated to Dr. Munnikhuysen the condition in which he had found the right eye. He said to him it would never do to administer an anæsthetic again to the patient, that it would be out of the question to perform the operation without an anæsthetic, and he thought that it was his duty to proceed then and there with the operation upon the other eye, as offering the only chance of preserving to the patient any sight at all.

Dr. Munnikhuysen fully agreed with him as to the anæsthetic, declaring that he would not be present at its administration to her again; and they both again carefully examined the right eye, finding it nearly as hard as marble, and both concurred in the opinion that it was the duty of the defendant to his patient to perform the operation at once. This he did skillfully and satisfactorily. The eyes of the patient presented most favorable indications and were bandaged as was his rule in such cases. Between that time and ten o'clock at night, the doctors both visited their patient several times, and found everything progressing as well as could be wished. They next saw her on the following morning, when they were informed by the nurse that Mrs. Ruths had passed a very restless night, that she had sat up in bed nearly all night, weeping bitterly, the bandage upon the eyes being nearly saturated with her tears. Upon the bandages being removed, it was discovered that her eyes were in a very unfavorable and unsatisfactory condition, which will be described to you by the doctors; but there were still hopes that some sight might be preserved to the right eye. I had forgotten to say that of the cases treated by the operation of Iridectomy about 98 per cent. result favorably, but in about 2 per cent. the operation itself aggravates the disease, what is known as malignant Glaucoma sets in, and almost instantaneous blindness ensues. It is impossible for the oculist to tell before the operation whether the case will be one of the 98 per cent. or of the 2 per cent. Either this unfortunate woman was one of the latter, or her restlessness or crying during the night rendered unavailing an operation which might otherwise have been successful. When questioned as to why she had sat up and cried after having been cautioned by the doctor to lie perfectly still and quiet, she said she could not help it; and no

doubt, the poor woman told the truth. She was visited from this time until she left the Infirmary daily by her husband, her daughter, or her brother-in-law, and no word of complaint was heard from her or either of them that the doctor had done anything that he was not authorized to do, or anything that he should not have done.

The patient at the end of three weeks returned to her home ; the doctor, during that time, having with his own hands dressed her eyes three times every day. The doctor visited her at her home two or three times a week for several weeks, when he went to the Springs, and once after his return. On the occasion of those visits, he was received by the family as a valued friend ; and Mr. Ruths told him that while he could not pay him in money for his services, he wanted to do something to show his gratitude ; that he had a pair of valuable pointer dogs which he intended to raise for him, and he brought the little things into the room to show to him.

The Doctor was one day visited by the daughter, who told him to come down and see her mother ; and the doctor, accompanied by his wife, drove down to the house of the plaintiffs'. When he entered the house, he was encountered by the plaintiff Ruths, who, to his great astonishment, seized a gun, and cocking it, tried to shoot him ; which he was prevented from doing by the daughter throwing herself between them ; Ruths charging him at the time with having put his wife's eyes out. This sudden change we have no way of accounting for, except in the belief that some enemy, or some professional rival of Dr. Reuling had poisoned the mind of the man Ruths, and induced him to believe that the doctor had neglected or maltreated his wife. Nothing further was heard of the matter. however, until nearly three years after the operation, which was performed now nearly five years ago. This suit was then brought, and a declaration filed in which it was stated that the defendant had been employed as an oculist to treat the plaintiff Margretta for a disease under which she then labored, and that he had treated her so negligently and unskillfully that she had lost her sight, etc. Nothing was said even when the suit was brought as to the doctor having operated upon an eye upon which he had no authority to operate, this theory being a later development of the case. We shall show you by the most abundant testimony that Dr. Reuling is exceptionally skillful in his profession ; we shall show you that the operation in this case was performed with his accustomed skill ; we expect to satisfy you that the defendant acted according to his best judgment and conscience, that he acted for the good and solely for the good of his patient ; and he acted as he did

after consultation with another oculist in whom he had sufficient confidence to trust him with his practice in his absence, that he acted after a concurrence in his views by this associate, that he acted as will be shown you by the most respectable physicians and oculists of this State he should have acted, and that he did that which it would have been criminal for him not to have done under the circumstances; and, having shown you this, if we succeed in doing so, we shall expect at your hands a willing and glad verdict for the defendant.

PLAINTIFFS' TESTIMONY.

Lucy Ruths called:

Mother is 51, she has two children, brother and I; he is the younger and is 20. Mother first complained a few days before the 4th of July; she complained that there was a pain like an itching in the eye. She went about the house and could attend to her duties; I saw her sew last the morning before the operation. She and I went to Dr. Reuling's office on the 4th of July to see about the left eye. After waiting awhile he came in. He examined her left eye, and told her that she had a cold in it, and that it would require a slight operation. Mother said, "But doctor, I don't want my eye operated on." He replied, "Don't be uneasy, I will guarantee a cure," and told her to come the next day or Tuesday. I said something about going to see Dr. Frank. "Oh no," said he, "don't do that, the operation will be very slight; you needn't have any fears." He also examined the right eye that day, and said that it was perfectly good. He lighted a lamp and examined them through a glass, he then closed the right eye with his hand and, holding a paper before her, asked if she could read with the left. She read the title as well as I. She could have read the fine print. The paper was the *Wecker*. I next saw Dr. Reuling on the 6th of July, at 5 o'clock in the afternoon at the Infirmary. Mother had been operated on and both eyes were bandaged. I asked, "Why, doctor, how is it you operated on both eyes." He replied, I found it necessary, and I did so; I did it on my own responsibility." She was at the Infirmary three weeks. I saw her often, nearly every day; I saw Dr. Reuling also. He told me that her eyes were getting along splendidly. I never knew that they were not until after his return from the Springs. He had promised to cure her in two or three days, but her eyes contin-

ued to be in such a bad condition, that father asked him why they didn't heal. He said she had another disease. Doctor came to see mother several times before going to the Springs. It was not until after his return that he said the operation had not been successful; and then, not until father had spoken to him about it, he said she had the heart disease. Mother has never seen since the operation. Dr. Reuling never said what disease he was to operate for. Her general health had been good. I never knew her to have any serious disease; she had the chills and fever about ten years ago. There was more than one operation. The second one was performed eight days after the first. I was not present. The doctor said nothing about it until the next day. He than told me he had found an operation necessary; that he had operated, and had given mother chloroform.

Cross :

Her pain was not severe, it did not keep her from sleeping. She had done nothing for it now. Had she seen any physician about it? Her family physician is Doctor Dodge. Mother asked Dr. Reuling if her right eye was good, and he replied, "perfectly good, as good as mine." He didn't examine the right eye with a glass. He didn't ask her to read the fine print of the paper; but she could have done so. She told the doctor she could see well enough; that it was not her sight that troubled her, but the pain. Doctor said that a slight operation would be necessary, but that it would not impair the sight. He guaranteed to cure the pain. I didn't go with mother to Dr. Reuling's on the 6th of July. He came to see mother several times after she left the Infirmary. After he went away, Dr. Munnikhuysen visited her two or three times. He was the only doctor who saw my mother while Doctor Reuling was at the Springs. Doctor Reuling never said anything about the chloroform having a bad effect.

William Ruths called :

I am one of the plaintiffs, the husband of Mrs. Ruths. I first saw Dr. Reuling on the 5th of July, 1875. My wife's pain was if she had sand in her eye—a kind of scratching. In the evening water ran out of her eye as she strained it during the day. The pain did not keep her awake at night. The doctor said that my wife had a cold in her left eye and that it needed a slight operation; her right eye, he

said, was good. He charged me seventy-five dollars. I told him that it was too much; that I would go and see Dr. Frank opposite. He then said that if seventy-five dollars was too much he would do it for thirty-five; that what Dr. Frank would do he would do, and that her board would be included. He said that it would only take two or three days to cure her; that, in that time, she would be able to do her work, go to market or anywhere else; that for thirty-five dollars he would give her a good eye. There was no contract in regard to the right eye; the right eye was good. He told my wife to come on the 6th of July; she did so, and the whole contract was talked over again. Dr. Reuling examined her eyes with a glass. He darkened the room, lighted a lamp, and held a glass up to her eyes for her to look into. He said her left eye was not sound, but her right eye was as sound as anybody's. She could read the title of the *Wecker* with her left eye. She could do all her household duties, thread her needle, &c., up to the time of the operation. He was to operate only on the left eye; nothing was said about operating on the right. I wanted to stay and see the operation, and would have done so, but the doctor told me to go home and return that afternoon at five o'clock. I did so. My wife was in bed with both eyes bandaged. Dr. Reuling came up at once. I said to him, "Why did you operate on both eyes without my consent." He replied that he had found it for her good to do so, and that he did it on his own responsibility. He said that the operation passed off very well, and that everything was all right. He had told me beforehand that he would have to give her chloroform; that she could not stand the pain. He told me at five o'clock that he had done so. She was at the Infirmary three weeks, where I saw her daily. A second operation was performed eight days after the first; he told me nothing about it. I called to see her on that day, but was not allowed to, the doctor remarking that something had happened to the operation, and that she would have to be kept quiet. He told me three weeks after the first operation that it had failed, and that he would have to cut out the lens. Dr. Reuling and his assistant visited my wife after she left the Infirmary. He said the reason why the operation turned out badly was because she had the heart disease. He first spoke of heart disease to me after her return. I told him I wanted him to send for Dr. Dodge, and consult with him about it. Dr. Dodge is my family physician. He didn't come, but Dr. Reuling did, who made an examination with his instrument, and said that there was no heart disease there.

CROSS :

My wife had not seen Dr. Dodge about her eyes before the operation. He was at my house two or three days before, but it was to see my daughter. My wife hasn't seen since she left the Infirmary ; her eyes were all bloodshot. Dr. Reuling visited her until he went to the Springs, and then Dr. Munnikhuysen came ; no other doctor came. Dr. Reuling saw her after his return from the Springs. There was no contract about board, the last payment of five dollars was made by my daughter after he came from the Springs.

REDIRECT :

Dr. Reuling took off the bandages in my house until Dr. Chisolm came and then he did it. Dr. Chisolm came in October. After Dr. Reuling stopped, Dr. Chisolm was the first physician to see my wife. Dr. Friedenwald saw her about two years afterwards.

Dr. Dodge :

I am a physician of fourteen years' practice ; I reside at 201 Hanover street. I have known the Ruths ten or twelve years. I am their family physician. I have been called to see Mrs. Ruths several times for chills and fever ; otherwise her health is good. My attention was never called to her eyes until after the operation. She had not to my knowledge heart disease or angina pectoris. I can't say that if she had had the heart disease I would have known it. I never examined her for it.

CROSS :

I knew she had impaired vision ; I can't say how long I knew it ; perhaps five or six months. I don't recollect whether she complained to me about her eyes or not. If a patient collapsed under chloroform, heart disease is one of the maladies whose existence I would naturally suspect. I would always examine a patient before giving it. I have seen persons apparently in good health, intolerant of chloroform. If I found the heart weak and suspected heart disease, I might give the patient stimulants.

Mr. Ruths recalled :

Dr. Reuling guaranteed to restore my wife's left eye to health.

Margretta Ruths :

I am one of the plaintiffs. I am 51 years old and have two children, a daughter of 22, and a son of 21; they are all I have had. I was first troubled with my eyes eight days before the 4th of July, when I went to see Dr. Reuling. It was something like a scratching in my left eye as if there was sand in it. It pained me sometimes; sometimes it did not. My sleep was irregular. I would be asleep, the pain would begin and I would wake up. I did my work in the house as usual; I sewed the last time three or four days before I went to see the doctor. I stopped sewing at night when the pain first began to trouble me. I never sewed after the operation; I couldn't see. I could read at the time of my visit to Dr. Reuling fine print. I saw the doctor on the 4th of July, 1875; my daughter was with me. He examined both eyes. He said that there was cold in the left eye, and that a slight operation would be necessary; that he would guarantee to cure it, and that in two or three days I could go to my work, go to market, etc., as well as ever. My sight, he said, was as good as anybody's. He closed my right eye and, holding a paper before me, asked me to read. I read the title of the *Wecker*. I think I could have read the fine print, but he held the paper so that the title was all I could see. My daughter and I then asked him what he would charge. He said seventy-five dollars. We then said that we would go and see another doctor, meaning Frank, and see what he would charge. Dr. Reuling said we shouldn't go; that he could put my eye in good health and that, as for the fee, I should send my husband around and all would be right. My husband and I went to see Dr. Reuling on the 6th. He examined my eyes in my husband's presence, and told me the same as on the 4th. He didn't say he was going to operate on both eyes, no, never! I was by when my husband and he agreed as to terms. Dr. Reuling said that for thirty-five dollars he would operate on my left eye, and that in three or four days I could go home, attend to my duties, go to market, and do anything I wanted to. My husband left me there; the doctor told him to go away. The operation was performed at 3 P. M. I went to bed; a sponge was put to my nose and I lost consciousness. When I awoke I was in terrible pain. I put my hand on my right eye and felt something wet; I asked the doctor what it was? He replied, a little blood; that he had operated on the right eye too. Both eyes pained me. His telling me was the first I knew of an operation on my right eye having been performed. A

second operation was performed the following Wednesday week. I don't know what it was; doctor put something to my nose and I lost consciousness. I had terrible pains when I came to. My eyes were all the time bandaged after the first operation. The doctor told me to lie quiet three days on my back without turning over. These are all the instructions he gave me. He did not try to operate the first time without chloroform. He removed the bandages three times every day,—morning, noon and night. I sat up while the bandages were applied. I cannot see the gentlemen of the jury, or you, nor can I distinguish persons or objects. With my right eye I can scarcely distinguish day and night. I have been in this way ever since the operation.

Cross :

My husband and daughter came to see me at the Infirmary daily; I told them I could not see. I was there three weeks. From July to September, when he went to the Springs. Dr. Reuling was to see me five or six times. While he was away Dr. Munnikhuysen came. One of the doctor's hired girls staid with me the night following the operation. The house girls do the work and wait on the sick. I stopped sewing at night a good while before the operation, because I knew that it was not good for my eyes. Dr. Reuling examined both of my eyes with the glass. I sewed last three or four days before the operation. After Dr. Reuling, Dr. Chisolm came in October.

George Ruths called :

I am William Ruths' brother. I have been here since 1858; my brother and wife came over in 1865. Mrs. Ruths' health has always been excellent. The first I knew of her having anything the matter with her eyes was Monday after the 4th of July, 1875, when I received a letter from my brother saying, that he was going to take his wife to Dr. Reuling's the next day. I went to the Infirmary on the day of the operation, and asked to see my sister. I don't know that the operation had been performed then; it was between two and four o'clock in the afternoon. Doctor told me that I could not see her then, but to come the next day. I did so. Dr. Reuling sent a servant with me up stairs, and followed himself soon afterwards. Mrs. Ruths was in bed; both eyes were bandaged. Doctor took them off, replaced them, but said nothing about the operation. I could not see any difference in the eyes. After replacing the bandages, he went down stairs; I re-

mained awhile with my sister. Finally, I went down too, and was met by the doctor who said that as everything was getting on so nicely I ought to see that he got his money. I told him that he need not be alarmed : that if the operation was successful I would pay the bill myself. I heard nothing of a second operation until the week following. I came the latter part of the week ; saw no difference. I had no conversation with the doctor about the second operation. After my sister told me about it I went to see him, and he told me that he had to perform it because something had happened to her eyes. I first heard from the doctor of his failure a considerable time after the operation had been performed. Up to then he had always spoken favorably of it ; said that everything would turn out all right, &c.

He was not cross-examined.

THE DEFENSE.

Dr. George Reuling called :

On the 4th of July, 1875, Mrs. Ruths, accompanied by her daughter, came to my office on Charles Street, between eleven and twelve o'clock, complaining of violent pains in the left eye. Examining it superficially, I found that it was suffering from fully developed Glaucoma, and I asked Mrs. Ruths how an intelligent woman could have waited so long with so serious a disease without consulting a physician. I then examined it more carefully. I found it extremely painful to the touch, the pupil was widely dilated and motionless, and the eye-ball was nearly as hard as marble ; it had reached tension three, the highest degree of tension which the eye can possibly reach without bursting. The right eye still possessed a fair amount of vision. Its tension was between one and two, and she could read number three print with the aid of a glass, number twenty-four convex ; acuteness of vision two-thirds, which means that letters which a healthy eye could see at thirty feet she saw at twenty. I told Mrs. Ruths that an operation would be necessary ; that, until twenty years ago, her disease was considered incurable, and that a person afflicted with it went inevitably blind ; that she could never see with her left eye again, and that I would only operate on it to relieve the pain. The right, I told her, had a fair amount of vision yet, and, if the operation was performed soon, she would very likely retain it the rest of her

life. I told her that I would operate first on the left eye, then give her time to recuperate, and in a few days I would operate on the right. I recorded my diagnosis of her case at the time—a custom from which I never depart.

The book was produced here, and found to contain an entry in Latin, which translated read: “Glaucoma in the left eye; simple Glaucoma in the right.” But before the first “g.” and a little above it, was written the letter “t” in black ink, the other writing being in violet.

Witness continued:

The “t” was put there on the 6th, on the occasion of Mrs. Ruths’ second visit. When she first came, the Glaucoma in the left eye was almost total; the second time it was total; hence the “t” for the Latin *totale*, meaning total. Simple Glaucoma runs its course in different times; the average of duration is eighteen months, or two years. There was increased hardness of the right eye on Mrs. Ruths’ second visit; its tension had advanced from between one and two to two. Glaucoma is easy to detect—its detection is the alphabet of ophthalmic surgery. The approved remedy is Iridectomy. Ninety-eight per cent. of the cases are benefitted by it, and two per cent. are not. It has no effect on the vision of a healthy eye. The result in her case revealed malignant Glaucoma. I tried to operate without chloroform; but she begged me to make her unconscious, and I did so. But first I examined her heart. I found nothing wrong, however, and I administered the anæsthetic with great care. But in spite of our precaution (Dr. Munnikhuysen was assisting me), she collapsed twice. The first time, the symptoms were not dangerous; but the second was so complete as to alarm us. We thought we had a corpse on our hands. All the means of artificial respiration were resorted to, and with success: her breathing became normal, and she was soon in good condition to operate on. As I said, her condition alarmed me. I was most awkwardly placed. The disease had accomplished its course in one eye; in the other it was in the ascendant. Seeing her life in danger, and convinced that I could never again give her an anæsthetic, I decided to operate on the right eye also. The operation was performed most satisfactorily. There was a perfectly clear lens, a large pupil, and I applied the bandage in full belief of my success. I forgot to state that with Dr. Munnikhuysen I again examined the right eye, and on account of its increased hardness, resolved to operate at once. I visited Mrs. Ruths five or six times that afternoon; my last visit was about half past ten o’clock. I found her comfortable, in good spirits, and I anticipated excellent results. I had charged the nurse to give her only

liquid food. The next morning, the nurse informed me that Mrs. Ruths had been sitting up in bed and crying most piteously, complaining of shortness of breath, and showing great anxiety to go home. I was alarmed, and considered her case one of hysteric angina pectoris. Opening the bandage, I found that both eyes were very red. The lens were pressed against the cornea, and the balls, which immediately after the operation were soft and normal, were now as hard as before. Charging her to keep perfectly quiet, I re-applied the bandage, putting in a few drops of atropia. I asked Mrs. Ruths why she behaved so. She replied that she could not help it. She remained at the Infirmary three weeks, during which time her right eye was in a fair state, being able to count my fingers at a distance of several feet. Dr. Munnikhuysen and I visited her after she returned home. We were always received kindly. I heard no complaint whatever. Whenever I called, it was made the occasion of a family gathering, and Ruths, wishing in some way to show his gratitude, brought in a pair of handsome pointer dogs, which he said he was going to raise for me. I went to the Springs in September, and called again on my return. Shortly after this, the daughter came to my office. She abused me terribly, and said that her mother wanted to see me. I called the next day. As I entered, Ruths deliberately seized a gun, and pointing it at me, cried: "Dr. Chisolm says you put my wife's eyes out. He told me to go for you and make something handsome out of you." This visit was, I think, some time in October. There was no second operation. If there was anything at all it was simply a little blood-letting. There was no second administration of the anæsthetic. I think I used chloroform and ether; but of this I am not sure. In 1874 and 1875 I used the mixture quite frequently. I afterwards abandoned it for chloroform. Too much ether is necessary. I have performed Iridectomy several hundred times. The fee table allows a charge of seventy-five to five hundred dollars for it. The nurse is Mrs. Jos. Adams, now insane. She was at the Infirmary three years—a most excellent nurse; the best I ever had. She fed the patients and occasionally slept with them. The age of Mrs. Ruths had its effect. Glaucoma is most common to women advanced in life. Crying had a bad effect, as has any expiratory effort or anything which affects the circulation. Dr. Munnikhuysen was with me between three and four years. He is a highly educated physician, and perfectly competent to practice on his own account. I never guarantee a cure; I wouldn't listen to it. I never said that Mrs. Ruths would be well in two or three days, or that she could go to market, etc. Nothing was said about Dr. Frank in my presence. I examined her

heart several times ; once before the administration of the mixture, once afterwards, and a third time at an appointment with Dr Dodge, which he failed to keep. I did not find any heart disease. Her circulation was feeble, but there was no organic trouble. I first heard of a guaranty after the bringing of this suit. I first heard of any complaint the Sunday that Mrs. Ruths' daughter came to my office. I learned that they were from my native town of Darmstadt, in Germany, during one of my visits. Her ability to read was no proof that she had not Glaucoma. The upper and inner field of vision may be effected, and yet the power of direct sight not. It is not uncommon for a patient to be able to read fine print up to the moment of the operation. An oculist should perform the operation as soon as possible. It is criminal in him not to. The field of vision is first affected. I tested Mrs. Ruths' vision the morning after the operation ; she could count fingers at fourteen feet. It was about the same while she was at the hospital. When she left, I told her that she would never again see well ; but I hoped by the removal of the cloudy lens to improve her vision. I told her I would remove it some future day. I also spoke to her husband about it. When I cut into the left eye there flowed from it a thin, watery and brownish substance, which should have been of the consistency of jelly. This showed the last stage of the disease, that of degeneration, in which all sight is gone. At Mrs. Ruths' first visit she could barely distinguish between day and night ; at her second visit she could not see at all.

CROSS :

Glaucoma may be chronic, acute or sub-acute. It is characterized chiefly by the increased hardness of the eye. Fulminant Glaucoma is the kind which destroys sight sometimes in a moment ; it represents the acutest form of acute Glaucoma. Glaucoma may exist without any perceptible symptoms. The patient is apt to wait until one eye is gone, feeling only the need of spectacles, or change of them ; thus changing one for another until one-half to two-thirds of vision is destroyed. Sometimes there may be no pain in the eye, but in the head. Simple Glaucoma is that, the progress of which is very gradual. It may be followed by an acute attack which, if vision is gone in a moment, is called fulminant. Chronic Glaucoma runs its course without any inflammation. It is frequently without pain in the eye, but produces aches in the fore and top part of the head ; in its later stages, vision is considerably impaired. Sub-acute is that in which inflammatory symptoms appear ; it is always accompanied by

pain. I have only seen three cases of fulminant Glaucoma in my life. Mrs. Ruths' was not fulminant, but, in the right eye, acute following simple; and in the left eye, acute following sub-acute. A large percentage of blindness in adults is due to Glaucoma. I kept the details of the case on prescription papers. Were I less busy I would keep a more accurate account. I do not remember whether I wrote the article in the New York Medical Journal, containing an account of this case, before this suit was brought or not. I wrote it from four to six weeks before its publication.

The date of the publication is May, 1878. Suit was brought the 7th of March.

Witness continued:

The record in the book and the article are my only account of the case. I am positive that I put the "t" there on the 6th. There were several kinds of ink in my office. Wiener used the black, Munnikhuysen the violet, and I all kinds. The operation of Iridectomy is not without risk. I tried to operate without an anæsthetic. I think I used a mixture of chloroform and ether. I did not say so in the former trial, because I did not think of it. I did not give her stimulants. Physicians differ as to the propriety of doing so. It is not my practice. Mrs. Ruths' first collapse was a mere fainting spell. I don't know how long the second collapse lasted. I was so alarmed as to have no conception of the time it continued. It may have been five minutes, or it may have been a half an hour. Dr. Munnikhuysen and I, after examining the right eye and discovering its increased hardness, decided to operate then and there, as the only time when she could have possibly received any assistance. I satisfied myself that the disease in that eye had made considerable progress. I intended, on the 6th, to operate on the left eye only, and to operate on the right eye in two or three days. I therefore examined the left eye in my office before operating. I found it entirely blind, and I remarked that it was a very bad case, where I could only relieve the pain without preserving the sight. I did not examine the right eye that morning, and it was only because of the dangerous condition of my patient, involving her very life, that I concluded to operate. I did not handle the ophthalmoscope on the 6th. I did not use any newspaper or type on the 6th to my knowledge. The right eye had advanced from between tension one and two to tension two. We told this by the touch. I did tell Mrs. Ruths that a small operation would be necessary, meaning on both eyes. The operation is small.

Dr. W. B. Munnikhuyzen called :

I am a physician in general practice. I studied the eye and ear exclusively for five years, first with Dr. Reuling and afterwards at Vienna and Berlin. I had considerable experience in the doctor's office and dispensary, his cases being very numerous. Dr. Reuling is perfectly scientific, is a very skillful operator. Glaucoma is characterized chiefly by increased intra-ocular pressure; an oculist has no difficulty in detecting it. I remember the case of Mrs. Ruths; I was present at the operation. I first saw her on the 6th of July. I sat with my back to her and paid her no attention until I recorded her name and disease. I asked the doctor what it was. He said Glaucoma, and indicated that it was a serious case. She was taken to a room where she was prepared by the nurse for the operation, which was performed between two and three o'clock in the afternoon. I am positive that Dr. Reuling examined her heart. I don't remember this instance particularly; I only know that it was his invariable custom. He always tried to operate without chloroform. I think that Mrs. Ruths asked for it. She certainly could not have stood the operation without some anæsthetic. I do not remember what kind was used, whether it was chloroform simply or chloroform and ether mixed. Mrs. Ruths after a few inhalations showed some very disagreeable symptoms. We resorted to artificial means of producing respiration, and she soon revived. We again administered the anæsthetic. This time she collapsed, and so suddenly and entirely that, although not usually timid, I was alarmed. Again we resorted to artificial means of respiration until finally she rallied and became in good condition for the operation. This was performed first on the left eye. The first incision of the knife was followed by an escape of vitreous humor, thin and watery, whereas it should have been of the consistency of jelly. This indicated that the eye was entirely gone. Dr. Reuling remarked, "This is a frightful case"; and I replied that it was and that I would never assist in giving her an anæsthetic again. We then examined the right eye. Dr. Reuling noticing increased hardness, we consulted as to the propriety of operating on it and agreed to do so. The operation was performed skillfully; the result was satisfactory. I visited her four or five times that afternoon; the last time was about eight o'clock. I saw her next the next morning at ten. The signs were all unfavorable: there was bleeding in the anterior chamber, protrusion of the lens, &c. I then learned that she had passed a very restless night; that she had been crying, sitting up and moving about in bed. The nurse told me this. The nurse was a good one; had

been with us several years. She did no housework, unless she wanted to. After the operation of Iridectomy, perfect rest is necessary. Crying, simply, will account for an unfavorable result. The first I heard of any complaint was after Mrs. Ruths left the Infirmary; I can not state the time exactly. She was a very nervous woman at the Infirmary. She had the best treatment in one of the largest rooms in the house. Nothing could have been done that was not done, nor did we anything that should not have been done. The operation under the circumstances was certainly justifiable; I would have consented to it had the patient been my nearest friend. There was no second operation performed; had there been I would have known it. There was no second administration of an anæsthetic; I would have known that too. By removing the cloudy lens, we thought we might improve her sight. We intended doing so later, after she had recovered some of her strength. I touched both eyes as was my custom. Mrs. Ruths' complaint to me was, "Oh doctor, if he only had not operated on both eyes!"

Cross :

There was a decided difference in the hardness of the two eyes. I examined only by the touch. I was in the room during the examination. Yes, a part of it may have been conducted in the other room. My back was turned to them; I do not know that the ophthalmoscope was used. The examination was made in the morning between ten and eleven o'clock; the operation was performed in the afternoon at three o'clock. I examined the eyes only in the operating room. I am not positive whether chloroform or a mixture of chloroform and ether was used. I recollect two distinct attacks. The first of them was not so violent as to prevent our going on. I do not say positively that Dr. Reuling examined Mrs. Ruths' heart; I only know that it was his custom. So in regard to the anæsthetic. I have never performed Iridectomy without chloroform, but I have seen it done. I don't remember Dr. Reuling's words, but they were to the effect that we could never give her chloroform again, and that then was the best time to operate on the right eye.

Dr. Samuel Theobald called :

I am a practicing physician. My specialty is the eye and ear, to which I have devoted eight years. I was fifteen months in Europe. I have had considerable experience in eye diseases. My practice has been

chiefly in Baltimore. Glaucoma is characterized chiefly by increased hardness of the eye-ball, increased intra-ocular pressure and atrophy of the optic nerve. The inevitable result of it, unless arrested, is loss of sight. Iridectomy is the principal cure. There are other remedies, but they are not so successful. The large majority of skilled oculists use Iridectomy. I heard Dr. Reuling's testimony. If the facts alleged in it are true, his treatment was eminently proper. I would have probably done the same under such circumstances. I never saw Dr. Reuling operate, but I know that he is a skillful oculist. Crying, moving about and sitting up in bed, would undoubtedly affect the operation unfavorably. Glaucoma is easily diagnosed. When there is great tension, Glaucoma is suspected. In its incipency, the centre of vision may not be at all affected; the field of vision, however, is circumscribed. This diminution of the field of vision is one of the most significant features. The earlier the operation is performed, the better. In some cases the vision may be improved; but when Glaucoma is total, an operation can only relieve pain. The common practice of all oculists of high standing is to operate on both eyes at once. The increased hardness of the right eye in two days indicated a case of rapid Glaucoma. The sight may last from hours to years without an operation.

CROSS:

Oculists differ as to the classification of Glaucoma. It wouldn't be safe to postpone operating one month. I don't recall any case, not operated for, in which the sight lasted any considerable time. I have seen a great many cases of Glaucoma in London and Vienna; I was at the latter place eight months. I don't know what proportion Glaucoma bears to other eye diseases. There may be good reasons for performing the operation on one eye and in two or three days on the other; for instance, if the patient is very nervous, debilitated, run down, etc. As a rule, there is not much shock in the operation; but there are exceptional cases. My practice is to operate on only one eye at a time. There is always some risk involved, and I prefer to divide it. Nobody can say how the operation will turn out. Although the patient had consented to an operation on only one eye, I can conceive of a case where an oculist would be justified in operating on both; for instance, if, during the administration of chloroform, the tension of the eyes were to increase. I heard of such a case happening in New York several months ago, where Dr. Loring considered the practice allowable. When the progress

of the disease is rapid, the chances are that Glaucoma is not simple but acute. I would have operated under the circumstances given by Dr Reuling. I was summoned by him as a witness in the former trial. I was not put upon the stand. I have since discussed the case with him twice. Dr. Murdoch was present on one occasion; on the other we were alone. Dr. Murdoch was present at the last interview, which was a few weeks ago. The first was several months ago. Dr. Reuling, after refreshing our memories about the case, gave us some facts, of which, at the first trial, I had no knowledge. My views were accordingly modified, first, by the statement that it was understood that he was to operate on the right eye; and, secondly, that he had used chloroform and ether mixed. He said that he had not thought seriously about the anæsthetic at the time of the trial, but that his memory had been refreshed since then, and that it was more than likely that a mixture of chloroform and ether was used.

RE-DIRECT :

I was summoned by the plaintiffs as a witness in this trial. Mr. Packard saw me about testifying. He did not discuss the case at length. He saw me last Sunday afternoon.

Dr. Russell Murdoch called :

I am a physician. My specialty is the eye and ear; I have practiced it eleven years. Under the circumstances given by Dr. Reuling, I should have done as he did. He is perfectly competent not only to diagnose but to operate. The increased tension in two days indicates that the disease was one of rapid progress. The percentage of good results in Iridectomy to bad is as ninety-eight to two. I agree with doctors Reuling and Theobald about the field of vision. The operation should be performed as soon as possible and, if the conditions are favorable, on both eyes at once. The thin, watery humor from the left eye was proof that all sight was gone. Glaucoma runs its course in about eighteen months or two years; it may take longer. Acute attacks are generally accompanied by considerable pain; as if corkscrews, &c. In extreme cases, the pain is one of the severest known. Where sight is destroyed rapidly, there is pain. Not so in case of gradual destruction. These things vary.

CROSS :

Although nothing was said to the patient about an operation on both eyes, and although the patient was under the impression that one eye was perfectly sound, still, if I found the disease in both eyes, I would operate on both. I would undoubtedly hesitate ; but I can conceive of a state of things where such a course would not only be justifiable, but imperative. When he can, I think it proper for the physician to acquaint his patient or his friends with the nature of the operation. I heard Dr. Reuling testify in the first trial. My impression is that he said he did not have Mrs. Ruths' consent. I do not think that, if her eyes are now opaque, a physician could tell what their condition had been. The nature of my interview with Dr. Reuling is substantially the same as that given by Dr. Theobald : that he had had his memory refreshed since the trial, and had reason to believe that he used chloroform and ether, and that he had informed Mrs. Ruths of the necessity of operating on her right eye. I see reasons why the operation on the right eye should have been postponed. The operation is sometimes performed without an anæsthetic ; I have done it. Some say that persons, though intolerant of chloroform, may take ether. Others contend that their effect is the same. I prefer chloroform.

RE-DIRECT :

Mr. Packard saw me with reference to being a witness. I am here at the summons of both.

RE-CROSS :

I was summoned by the defendant at the former trial ; I was not put on the stand. I was not summoned by the plaintiffs.

Dr. Ferd. Rinehart called :

I am a physician in general practice. I studied the eye as a specialty in Vienna and Berlin. I was one year with von Graefe, the author of Iridectomy. Dr. Reuling is a very skillful oculist ; he operated on me. One may have Glaucoma and yet be able to read usual print. It may affect the field and not the power of vision, or neither. I know of a case in Europe where the operation was postponed one day and the patient lost his sight. Glaucoma may last many, many years.

Dr. George W. Miltenberger called :

I am a physician ; have been practicing forty years. I know Dr. Reuling perfectly. I have seen him operate more than once, and I consider him very skillful, and thoroughly and perfectly competent to diagnose any disease and to perform any operation connected with his specialty. If the facts stated by Dr. Reuling are true, then no matter whether he informed his patient of his intention of operating on both eyes or not, or whether he intended so to operate himself or not, he was not only justified in doing as he did—it was his duty. The increased hardness of the eye-ball in two days made the operation imperative.

Cross :

You ask me if it is not the physician's duty to inform his patient of the character of the disease and the nature of the remedy ; generally, yes ; specifically, no. The propriety of an operation depends upon circumstances. Emergencies arise in which the physician is thrown upon his own responsibility, and his duty, both moral and professional, requires that he shall act up to his best judgment and conscience. It is only the man who has no conscience that never risks.

Dr. W. Chew Van Bibber called :

I am a physician ; have been practicing thirty-five years. I have known Dr. Reuling since 1868. I have seen him operate repeatedly. He is an excellent oculist. I heard his testimony. If true, his treatment was proper. I agree with Dr. Miltenberger exactly.

Cross :

I don't testify as an expert.

Dr. Alan P. Smith called :

I am a physician ; have been practicing nineteen years. I have known Dr. Reuling ever since his arrival, and have had abundant opportunities to know his skill. He is a very skillful oculist indeed ; is thoroughly competent to diagnose a case. I heard the question as to the propriety of the operation stated. My opinion is that it was very proper for Dr. Reuling to perform it and that it was very properly done.

Cross :

I accept the qualifications of Dr. Miltenberger.

Dr. Dennis I. McKew called :

I am a physician; have been practicing thirty years. I have known Dr. Reuling since his first arrival. I have had the opportunity of knowing and I do know that he is a very skillful oculist. I heard his testimony in this case. If true, his treatment was eminently proper.

CROSS :

Where a patient places himself under a physician, he must submit to his discretion in emergencies. Where the opportunity to confer is given, it should be done. I can conceive of a case, however, where a physician should operate even against the patient's volition, *e. g.* suicide. It is the physician's duty to preserve life whether the patient is willing or not.

Dr. James Carey Thomas called :

I have been practicing twenty-five years. I have known Dr. Reuling ever since his first arrival; have had many opportunities to form an opinion. He is a skillful operator and diagnostician. I heard the greater part of his testimony. If true, his treatment was proper.

CROSS :

There is a responsibility on the physician to do whatever the welfare of the patient requires. Ordinarily in operations the patient or his friends should be consulted; but cases arise in which the physician should act regardless of consequences. I always act as if I were the patient and he the doctor.

REDIRECT :

A physician should act according to his conscience and judgment.

Dr. G. W. Wiener called :

My specialty is the eye and ear. I graduated at the University of Maryland in 1874; until October, 1877, I assisted Dr. Reuling, and then went to Europe. I began practice on my own account in July, 1879. I have witnessed and have performed the operation of Iridectomy frequently. Glaucoma is a disease which is characterized chiefly by increased hardness of the eye-ball; if not stayed, it will inevitably produce blindness. Before 1851 it was always considered incurable. The duration of it depends upon the variety. It usually runs its course in one

and a-half to two years, but it may continue three years. Fulminant Glaucoma destroys the sight almost instantly : other varieties may last almost any time. An experienced oculist has no difficulty in detecting Glaucoma if the symptoms are at all developed. Any thing will produce it that destroys the equilibrium, any excitant or peculiar habit of body. In an eye predisposed, card-playing will have that effect ; so will crying, especially after an operation. The increased hardness of the eye-ball in two days indicated a case of rapidly progressing Glaucoma. Iridectomy is the operation most generally performed, and at once. The watery, vitreous humor indicated that the eye was in a state of degeneration ; that the Glaucoma was total. I heard the hypothetical questions put to the other experts. The operation, under the circumstances, was perfectly proper.

Cross :

I think that the patient should be informed of his predicament. Another operation besides Iridectomy is Sclerotomy. I do not think that it was known at the time of the operation in question ; it was not introduced until 1876. Besides, I would have preferred Iridectomy. It has won its laurels, while sclerotomy is very insecure. Assuming that an operation was performed on both eyes and total blindness resulted, and that they were both opaque, a physician could not tell what had been their condition, unless there was a distinct hardness of the balls. In that case I could confidently assert that the operation had been performed for Glaucoma. But even then the eyes would have to be very hard for me to tell. In the operation of Iridectomy accidents are possible. It is dangerous, however, only in unskillful hands. Dr. Reuling always operates with von Graefe's knife. An oculist cannot say in every case how the operation will turn out. I keep a record of my cases ; I think oculists generally do. I, occasionally, kept a record of cases while with Dr. Reuling ; the record was kept in an ordinary journal. Of some cases notes were put down on slips of paper to be afterwards copied. Glaucoma cases were recorded as were those in which the ophthalmoscope was used. I do not remember any other book being kept.

REDIRECT :

Even had Sclerotomy been discovered, I would not, under the circumstances, have used it. I do not believe in it much : its curative effects have not been well established.

Dr. Edward Gruening called:

I reside in New York. My specialty is the eye and ear ; I have practiced it thirteen years. I am surgeon to the New York Eye and Ear Infirmary, and ophthalmic surgeon at the German Hospital and others. I have operated frequently for Glaucoma. Where it is established, vision is almost always diminished ; it does not always affect direct vision. Its first effect is general dimness. In acute Glaucoma the patient seeks relief from pain ; in the chronic, his attention is first called to diminished sight. The field of vision in its upper and inner part is almost always contracted. The one symptom common to all forms is the increased hardness of the eye-ball ; all others may be referred to it. This symptom is perceptible to the touch, the eye being sometimes as hard as stone. Glaucoma is acute when rapid ; sub-acute when somewhat prolonged ; chronic when extended over a period of some years ; and fulminant when sight is destroyed at once. The symptoms differ accordingly. The increased hardness of the left eye indicated a case of rapid Glaucoma. The thin, vitreous humor indicated Glaucoma absolutum ; that vision was nil. Dr. Reuling was taught in the best school that Germany affords. It would have been criminal in him not to have operated. Mrs. Ruths would have gone blind without the operation. Delay is never safe ; the operation should be performed as soon as the disease makes its appearance. If it was impossible to operate on both eyes, the better practice would have been to operate on the right eye and let the left go ; pain is temporary only, the loss of sight permanent. The first mention of Sclerotomy to diminish ocular pressure was made in 1876, by Wecker in Paris. It was also discovered in Darmstadt and Berlin about the same time. It was used in 1875, but under a different name and for a different purpose. I have used it and consider it unreliable. When Prof. Pagenstecher had Glaucoma he submitted to the operation of Iridectomy. The inevitable result of Glaucoma is blindness. Iridectomy, in a large majority of cases, is successful. Glaucoma is malignant where, after the operation, the eye remains very hard. Failures have happened to every oculist of large practice, *e. g.* Knapp in New York, von Graefe in Berlin and others. Weeping, moving about, laughing, shouting, indeed every expiratory effort produces congestion in the head and consequently endangers sight. Apart from the emotional cause, the mechanical part is enough. Iridectomy may be performed on a healthy eye and yet not effect the visual power at all ; nor would the general health of the patient be affected.

CROSS :

Your question as to the propriety of informing the patient of his predicament can hardly be answered by yes or no. It will depend upon circumstances. In some cases it would be proper to do so, while in others it would display a great want of taste and jeopardize the result. In Glaucoma, for instance, where the patient should be kept perfectly quiet, the propriety of a disclosure is extremely doubtful. The danger of a disclosure after the operation is performed is not so great. Hardness of the ball is characteristic of no other eye disease. The use of anæsthetics depends on the patient. In nervous and hysterical people it is necessary ; I use them in the majority of cases. Which is the best is still disputed. In Europe, more chloroform is used ; in America, more ether ; chloroform depresses, ether exhilarates. I think a mixture very good. Before the discovery of Iridectomy, Glaucoma was considered incurable and its victims invariably went blind.

REBUTTAL.

Captain Matthew Clark called :

I am one of the bailiffs in the Baltimore City Court. I was present at the former trial. I understood Dr. Reuling to say that he intended operating on one eye only ; that it was not until after he administered the chloroform that he knew the other was affected ; and that, considering that it would be necessary to operate on that eye in time, concluded to operate then.

CROSS :

I don't know that he used those words, but such I understood to be their effect. I might be mistaken. I remember now that he did make notes of the first day's examination and recorded them in a book. I don't remember hearing him say that he intended operating on both eyes.

Hon. Henry F. Garey called :

I am one of the Judges of the Supreme Bench of Baltimore City and am now presiding in the City Court. Dr. Reuling said that he intended operating on both eyes, but not on that day ; on the left eye first and in two or three days on the other. But, he said, after he administered the chloroform the woman nearly died ; indeed, he thought for a time that she was dead ; and, believing that her life was in danger, and convinced

that he would never be able to give her an anæsthetic again, he concluded to operate then and there on his own responsibility, without notifying her or her husband. He said nothing to Mrs. Ruths about an operation on the right eye.

David Grafton Carlisle called :

I reside in Baltimore, on Division St. I was one of the jurors in the former trial. Dr. Reuling, on that occasion, admitted that he operated on her right eye without her consent or that of her husband. He told her that he was going to operate on the left. He said he did not intend operating on both eyes until after he administered the chloroform, when, on account of her dreadful condition, he concluded to do so.

Mrs. Ruths recalled :

I have never seen since the operation. Dr. Reuling did not try to operate without chloroform ; he told me that he would give me chloroform to relieve pain.

William Ruths recalled :

I never told Dr. Reuling that Dr. Chisolm said that he had put my wife's eyes out, etc. The gun scene was in September.

Cross :

I know it was in September from the season of the year. The weather was not very warm, fire being occasionally required in the house. The day in question was rainy. I remember the month.

PRA YERS.

PLAINTIFFS' FIRST PRAYER.

If the jury shall find from the evidence that the defendant is a physician or surgeon who makes a specialty of the treatment of the eye, and that being so he was employed to treat the plaintiff Margretta for a trouble of the left eye, and that the defendant examined the eyes of said Margretta, and said that only a small or slight operation on the left eye would be necessary, and that he would guarantee the success of such operation,

and that in a few days she would be able to go about as usual; and that thereupon the plaintiffs consented to such operation on the left eye, to be performed for a stipulated fee; and that afterwards the defendant performed such operation, and that such operation was unsuccessful and resulted in said left eye becoming useless or seriously and permanently injured, then the plaintiffs are entitled to recover.

This prayer was granted in connection with the defendant's third prayer on the subject of guarantee.

PLAINTIFFS' SECOND PRAYER.

If the jury shall find from the evidence that the defendant is a physician or surgeon who makes a specialty of the treatment of the eye, and that so being he was employed to treat the plaintiff Margretta for a trouble of the left eye, and that the defendant made an examination of both eyes of the said Margretta and declared that the right eye was as good as his, but that there was a trouble with the left eye, and that a small or slight operation thereon would be necessary, that such operation was very simple, and that in a few days she would be able to go about as usual, and that thereupon the plaintiffs consented to such operation upon the left eye to be performed for a stipulated fee; and that afterwards the defendant administered chloroform or chloroform and ether mixed, to the said Margretta and operated upon both of her eyes without the knowledge or consent of herself or her husband as to the operation upon the right eye, and that such operation upon the right eye was unsuccessful and resulted in the right eye becoming useless or seriously and permanently injured, then the plaintiffs are entitled to recover (unless the jury find the employment of the defendant was as stated in the defendant's first prayer.)

The words in the parenthesis are the Court's.

PLAINTIFFS' THIRD PRAYER.

If the jury shall find from the evidence that the defendant is a physician or surgeon who makes a specialty of the treatment of the eye, and that so being he was employed to treat the plaintiff Margretta for a trouble of the left eye, and that the defendant made an examination of the eyes of the said Margretta, and declared that the right eye was as good as his, but that there was a trouble with the left eye, and that a small or slight operation would be necessary, that such operation was a very simple one, and that in a few days she would be able to go about

as usual, and that being induced by said representations the plaintiffs consented to such operation on the left eye, to be performed for a stipulated fee; and if the jury shall find further that such operation was in fact a serious or grave operation involving the risk of the loss of vision of the said eye and that the defendant knew it to be so at the time said representations were made, and that immediately thereafter the defendant operated upon said left eye, and that such operation was unsuccessful and resulted in the left eye being useless or seriously and permanently injured, the plaintiffs are entitled to recover.

PLAINTIFFS' FOURTH PRAYER.

If the jury find for the plaintiffs in the case of Ruths and wife, under the instructions granted by the Court, they may, in estimating the damages, consider the mental and bodily suffering, pain and anguish which the wife has already suffered, or which it is reasonably certain she may yet have to suffer, in consequence of the operation or operations or either of them performed upon her eyes by the defendant, if they find any greater suffering was occasioned by such operations than she would have suffered without such operations; and also the loss and damage of the permanent injury (if they shall find such injury) which she has suffered or received in consequence of the operation or operations performed upon her eyes by the defendant.

This prayer was granted by the court in lieu of plaintiffs' original fifth.

PLAINTIFFS' FIFTH PRAYER.

If the jury shall, under the instructions of the Court, find for the plaintiffs in the case of William Ruths *vs.* George Reuling, then they are instructed that in estimating the damages which they are to award they may make a reasonable allowance for the loss of the services of the wife, or the diminution of the value of those services or the diminished loss of comfort in her society, which he has already sustained or may hereafter sustain as the result of the operation or operations performed upon her eyes by the defendant.

DEFENDANT'S FIRST PRAYER.

The defendant prays the Court to instruct the jury that if they find from the evidence that the plaintiff William Ruths or his wife Margretta, with the consent of her husband, consulted the defendant as an oculist

and surgeon respecting a disease of the eyes with which said Margretta was suffering, and that said William Ruths or said Margretta, with his consent, placed said Margretta under the care of said defendant as such surgeon and oculist, to be treated by the defendant for said disease, and that the defendant undertook as such surgeon and oculist to treat said Margretta for said disease, and that in so treating her he used such skill and care as are ordinarily used by oculists of ordinary skill and experience in the treatment of such diseases as said Margretta had, then their verdict must be for the defendant.

DEFENDANT'S SECOND PRAYER.

The defendant prays the Court to instruct the jury that the burden of proof is on the plaintiff to show that the injury of which the plaintiffs complain was a result of a want of ordinary care and skill on the part of the defendant for the treatment of the plaintiff Margretta Ruths for a disease of the eyes (provided they find the employment of the defendant was as stated in the defendant's first prayer).

The words in parenthesis are the Court's.

DEFENDANT'S THIRD PRAYER.

The defendant prays the Court to instruct the jury that the burden of proof is on the plaintiffs to show that the injury of which the plaintiffs complain was the result of a want of ordinary care and skill on the part of the defendant for the treatment of the plaintiff, Margretta Ruths, for a disease of the eyes (provided they find the employment of the defendant was as stated in the defendant's first prayer).

MR. PACKARD'S ADDRESS.

GENTLEMEN OF THE JURY:

You are as able to form an intelligent opinion upon this case as I. My duty is simply to review the facts, lest in the progress of the trial some of the more important ones may have escaped you. And first, gentlemen, let us consider for a moment the parties interested. Whom are we to believe, the plaintiffs or the defendant? Remember that Dr. Reuling is an oculist of large practice. According to his own testi-

mony he has treated many thousand patients, and I ask you what is there in the single case of Mrs. Ruths to enable him to testify correctly to facts which transpired now nearly five years ago? He pretends to have recorded the diagnosis at that time; but of this I shall speak later. On the other hand, this is Mrs. Ruths' only case. There is every reason why she and her family should remember it. It is but natural that every fact in connection with it should be impressed indelibly upon them, for the events which then occurred were most momentous. Since that day, Mrs. Ruths has not seen. The world has been dark to her. She has beheld neither the smiles of her children nor the affectionate looks of her husband. How natural, then, how very natural, that what she last saw she should now remember, and that the recollection of the dreadful catastrophe and of the events which immediately preceded and led to it, should go with her to her grave! I submit, gentlemen, that, so far as the presumption is concerned, it is all in our favor. But you are told that the defendant is corroborated by Dr. Munnikhuysen. Gentlemen, remember the prince and courtier in the play.

HAMLET.—Do you see yonder cloud that's almost in the shape of a camel?

POLONIUS.—By the mass, and 'tis like a camel, indeed.

HAMLET.—Methinks it is like a weasel.

POLONIUS.—It is backed like a weasel.

HAMLET.—Or, like a whale?

POLONIUS.—Very like a whale.

I do not wish to say anything in disparagement of Dr. Munnikhuysen, but he was a pupil of Dr. Reuling at the time, and it is not at all strange that he should simply reflect all that his teacher said and did.

And now, gentlemen, I shall call your attention to some of the suspicious circumstances which surround this case. Dr. Reuling testified that at the time he examined Mrs. Ruths' eyes, he made a record of his diagnosis in his book. I asked him if he had the book? He replied, yes. I then asked him to produce it, which he did. Turning to the page on which the record was written I read these words:—They are in Latin. Translated they are, "Glaucoma in the left eye; simple Glaucoma in the right eye." But before the words "Glaucoma in the left eye" and above them I saw the letter "t" in black ink (the other writing being in violet) and I asked him what it meant. He said totale, the Latin for total, indicating that the Glaucoma in that eye had run its course. I asked him when he put it there. About this he was not positive. He thought, however, that he put it there on the occasion of Mrs. Ruths' second visit. Gen-

lemen, this may be so, but I leave it to you if there is not something suspicious about it.

Another suspicious circumstance. After the doctor had described in his testimony the case of Mrs. Ruths so minutely, I called his attention to one of his annual reports, that during the year in which the operation upon her was performed. One discrepancy which I pointed out he charged to the printer; but when I challenged him to show me any where in his report the description of a case corresponding to that of Mrs. Ruths, he was obliged to confess he could not.

You will remember that I next questioned him in regard to an article published in the New York Medical Journal, the title of which is "Glaucoma, with an Illustrated Case," the case being Mrs. Ruths. The defendant confessed that he wrote it, but was not certain as to the time. I said to him, doctor was it written one month, two months, or three months after the operation? He said it was not; and, being more closely examined, admitted that he had written it from four to six weeks prior to its publication. Now it was published about the first of May. Counting back six weeks, the longest time named, brings us to the middle of March, and this suit was brought on the 8th. How then, gentlemen, we have a case reported for the first time nearly three years after it was treated. And reported from what? From a book containing all the details? No, but from scraps of paper which the doctor says he carried around in his pocket all that time!

Dr. Reuling testified in this trial that he thought that the anæsthetic administered to Mrs. Ruths was a mixture of chloroform and ether. I was very positive that his testimony in the former trial was not to this effect, my recollection of it being that he said he gave her chloroform. I therefore called several witnesses who were present on that occasion, and you heard what they said. It was that Dr. Reuling said nothing about a mixture of chloroform and ether, but chloroform simply. This is one contradiction. Another is in regard to a more vital point. Did he tell Mrs. Ruths of the necessity of an operation upon her right eye? He testified in this trial that he did. The Hon. Henry F. Garey, the Judge who presided then, and Captain Matthew Clark, one of the bailiffs of the City Court where the trial took place, have been produced before you, and both testified unhesitatingly that Dr. Reuling said that he did not tell Mrs. Ruths anything about an operation on her right eye, but that he operated entirely on his own responsibility without her consent or that of her husband.

Gentlemen, these contradictions mean something. These differences

of testimony are differences of some magnitude, and they have had the effect of converting doctors Murdoch and Theobald from hostile witnesses to witnesses in his favor. You will remember that I asked both of them whether or not the additional intelligence given by Dr. Reuling to them on the occasion of their interview had modified their views, and they said, they had. Dr. Reuling is as careless with his tongue as with his knife, and that is saying a great deal.

Ah, gentlemen, it is a great pity that what occurred in the operating room while Mrs. Ruths was unconscious is not better known to us. You will be asked by counsel on the other side what motive had their client to operate on both eyes unless both eyes were affected. Let me say to you, gentlemen, that the time I have referred to was a time of confusion; the doctors were alarmed; they thought that they had a corpse on their hands; and in the excitement of that moment there may have been a mistake. Intending to operate on the left eye, they may have operated on the right. At least, this explanation makes very clear many things which, without it, are very obscure.

Dr. Reuling is very fond of cutting. Did you see how his fingers itched when his counsel remarked to the jury, that, if necessary, the operation of Iridectomy would be performed in open court. Had such a cruel proceeding been attempted here, I certainly should have objected.

MR. MORRISON.—“Mr. Packard, you certainly did not so misunderstand us as to suppose that we intended to produce a living animal.”

MR. PACKARD.—“I am only repeating what you said.”

In comparing, or rather I should say in contrasting, the testimony of the defendant with that of the plaintiffs we observe one very noticeable fact, that the further in point of time we get from the facts testified to the wider is their divergence. Husband, wife and daughter are positive that Dr. Reuling said that with reference to Mrs. Ruths' left eye there was cold in it; and that, as for the right eye, it was as good as his. They testify too, and, in this respect they are corroborated by George Ruths, that Dr. Reuling guaranteed a cure; that he did so specifically; his remarks not being simply expressions of confidence, but delivered in such a way as to give them binding force. He said to Mrs. Ruths, “I can cure you in two or three days. In that time you will be able to attend to your duties, to go home, go to market and wherever you want to.” The proof of his use of such language is overwhelming. It speaks for itself and I shall not discuss it.

So in regard to the operation on the right eye. It was wholly unau-

thorized. The proof is that he said that that eye was as good as his. He certainly said nothing about his intention of operating on it: for, although he contends now that he did, yet he does so at the expense of what he said in the former trial with equal solemnity and under equal obligations to tell the truth. The contract related to the left eye and to it only. In operating on the right eye he exceeded his authority, and is liable as a trespasser to that extent.

MR. MASON'S ADDRESS.

GENTLEMEN OF THE JURY:

I had thought that only four speeches would be made in this case, and was not aware that all the counsel on the other side would address you until a few moments ago. Accordingly, not having prepared myself for an effort, I shall not attempt one, contenting myself with simply a few observations.

When my attention was first called to this case, I gave it a thorough investigation; I examined all the witnesses for the plaintiffs whom we had before you, and I came to the conclusion that the defendant had perpetrated an unparalled outrage. All through the trial his counsel seem to have thought it absurd that we should have charged him with having guaranteed a cure. But, gentlemen, this is nothing unusual. In the course of trade among merchants, it is daily entered into, and there is no reason why professional gentlemen should not be accorded the same privilege.

Again. Had Dr. Reuling authority to operate on the right eye? He certainly had not. You heard the witnesses, who testified emphatically that he had not. Authority to operate on the left was no authority to operate on it. If you go to a wheelright and ask him to fix one wheel of your carriage, what right has he to touch another? The wheels are independent; so are the eyes.

MR. MORRISON'S ADDRESS.

In a practice that has now extended over a good many years, I must confess that I have never witnessed such mistatements and perversions of testimony, which I take it for granted were unintentional. as we have listened to to-day from the counsel who have addressed you on behalf of the plaintiffs. The counsel have found nothing too infamous to be imputed to the defendant, and the most serious charges have been either made or hinted at without a scintilla of evidence in the case to justify them: and if the half of them were true, Dr. Reuling, instead of being here to answer a civil action for damages, ought to be in the penitentiary for the balance of his natural life. Our brother Packard has charged before you, either directly or in effect, that the defendant has been guilty of butchery, forgery and perjury—a butcher with his knife, a forger with his pen, and a perjurer on the witness stand. He has had the boldness (I was going to use a stronger word) to say to you that you had the right to infer that Dr. Reuling had by mistake operated on an entirely healthy eye, and afterwards upon a diseased eye; and that the evidence of himself and Dr. Munnikhuysen was an artfully devised story, made up after the fact to cover up the truth, and to shield him, the defendant, from so gross a wrong. It would seem that to maintain this theory, it would be necessary to impute perjury not only to the defendant, but also to Dr. Munnikhuysen. This, however, was a point to which even the boldness of my friend Packard could not go, and he has contented himself with confining the charge of perjury to Dr. Reuling, while he has tried to make you believe that Dr. Munnikhuysen was a man of so little intelligence, that he accepted and adopted everything that Dr. Reuling may have said to him, whether it were true or not, and no matter how abundant his opportunities may have been for knowing their truth or falsity, and he came here to spew these statements out before you just as they were pumped into him. In other words, that while Dr. Reuling is a perjurer, Dr. Munnikhuysen is only a natural born fool, who could be made by Dr. Reuling to believe the false to be true as easily as Polonius could be induced by Hamlet, at one moment, to agree that a cloud looked like a camel, and the next, that it looked like a whale. You saw and heard Dr. Munnikhuysen upon the stand, and you can judge as well as I whether or not he is the simpleton that my brother Packard would make him out to be. As to the insinuation itself, I

shall not stop to refute it further than to say that it is one of those charges of my brother Packard which I have said there is not a scintilla of evidence in the case to sustain.

The whole tenor of my brother Packard's argument was such as to remind me of the case of a gentleman who was the owner of a handsome pointer dog. A friend was one day admiring the beauty of the animal, when the owner said: "Oh, yes, he is all right as to looks, but he does not amount to anything on a hunt. I can go out gunning with that dog, and he will trot through covey after covey of birds, and never take notice of one; but if he gets his eyes on a grasshopper, the scoundrel will stand him all day." My brother Packard has been standing grasshoppers throughout the whole of this case. Not that he would not have flushed a bird occasionally, if there had been any birds in the field through which he has traveled; but there were none. For instance, the entry on the defendant's book of the 4th of July, as to the condition of the disease in the left eye, was in violet ink, and just before the word *Glaucoma*, there appears the letter "t," which Dr. Reuling says he put there on the occasion of the plaintiff's second visit. My brother Packard sees that that letter "t" is in black ink, and to his suspicious mind, it at once occurred that it was put there for some black purpose. He did not tell you what, but called upon the defendant to explain. This we think the defendant has done to the satisfaction of everybody but Mr. Packard, who still continues to stand this grasshopper after he has been shown what it is.

Again. He has tried to show that Dr. Reuling is not worthy of your belief, because he testified on the first trial that he had administered chloroform to the plaintiff, and he testified this time that he is not quite sure whether it was chloroform or chloroform and ether, although he tells you in the same breath that, if he had the same thing to do to-day, he would give chloroform.

He has also tried to show that the defendant testified in the first trial that he did not tell Mrs. Ruths that he intended to operate on the right eye in a few days after operating on the left, as he has testified before you he did tell her. And how has he tried to show this, and with what success? He had summoned here Captain Matthew Clark, a bailiff of the Baltimore City Court, who was present at the former trial, and the Honorable Henry F. Garey, the Judge who presided at that trial. You will remember that these witnesses arrived after the testimony had been closed on both sides, and while we were engaged in the argument of the prayers before the Court. They could

not have been examined at all without our consent. This we did not hesitate for a moment to give, and the result must have satisfied you that we had no reasons for withholding this consent. Captain Clark, who was no doubt entirely honest, told you that his attention had been particularly called to that part of the case, and he remembered distinctly that Dr. Reuling had testified in the former trial that after he had put the woman under the influence of chloroform for the purpose of operating on the left eye, he then, *for the first time*, discovered that the right eye was diseased, and also needed an operation. But on cross-examination, when the Captain was asked if he did not remember the circumstance of the book being shown to the jury, containing a statement of the condition of both eyes, which statement, Dr. Reuling said that he made on the occasion of the woman's first visit to him on the 4th of July, admitted first, that he thought he might be mistaken, and,—a moment afterwards, frankly and fully admitted that he knew that he was mistaken. Judge Garey testified that Dr. Reuling said in the former trial, of which he, the Judge, took no notes, that he operated on the patient's right eye without the knowledge or consent of herself or husband; but that the woman had come near dying under chloroform, that he had thought for a moment that she was dead, and that he had to operate then or he never could have operated at any future time, as it would be as much as the woman's life was worth to give her chloroform again. Dr. Reuling himself has told you that he did not tell the woman or her husband that he was going to operate on the right eye on that day, and the Judge, no doubt, has had his attention directed particularly to that portion of the testimony; and it is upon differences such as this, and upon testimony such as this that Mr. Packard would have you impute perjury to the defendant. I submit it to you as my firm belief that so grave a charge was never based upon a slighter foundation.

It is a remarkable circumstance that while the counsel, who first addressed you for the plaintiffs, has summoned witnesses here to testify as to their recollection of the testimony in the former trial, with a view to contradicting Dr. Reuling, he himself has not been able to remember the testimony of witnesses in this trial; and, as you will remember, on several occasions he begged pardon of witnesses for having mis-stated their testimony in the cross-examination; and having so good reason to mistrust the accuracy of human memory in his own case, he yet does not hesitate to ask you to rely upon the memory of others as to facts happening months ago, and in which the witnesses

had no special interest. I have no hesitation in asserting positively, and his argument justifies me in making the assertion, that Mr. Packard does not know to-day what was testified here two days ago.

My brother Packard flushed another grasshopper in the cross-examination of Dr. Theobald. After having strengthened the doctor's testimony in our favor by a few questions, he endeavored, as you will remember, to break the force of his testimony, by showing that he had been summoned by the defendant as a witness in the former trial, but had not been examined; and since then the defendant had visited the doctor and had discussed this case with him with a view to getting his testimony in this trial, if his views should turn out to be favorable. You will remember that I met this by showing that the doctor had been summoned as a witness in this trial by the plaintiffs, but had not been examined by them; and as I inferred from this that the doctor had been consulted on behalf of the plaintiffs, with a view to obtaining his testimony, if his views should be in their favor, I asked him a question to this end, when he said he had been called upon on behalf of the plaintiffs; and when I asked him who had called on him, who of all the people on the face of the earth should it be but Mr. Packard himself; and, in answer to the question when Mr. Packard had last seen him, he answered: "It was last Sunday." Great heavens! Gentlemen of the jury, to think of my pious friend Packard hunting up witnesses for this case on Sunday! Now I would not say there was anything wrong in the plaintiffs or their counsel consulting with experts with the view to obtaining their testimony, if favorable; but I mention the circumstance simply to show that everything done by Dr. Reuling is wrong in the estimation of the counsel for the plaintiffs, and that he had tried to create an unfavorable impression on your minds by showing that the defendant had done that on a week day, which it turned out that the counsel himself did not think it wrong for him to do on Sunday.

In the whole conduct of this case, gentlemen of the jury, the counsel did not say one single word about the great emergency in which Dr. Reuling found himself placed on the occasion of the operation, and he deliberately ignored every part of the testimony which tended to exonerate him from blame. My brother Packard seems to be struck with fulminating and total Glaucoma when called upon to look upon the facts which make for the defendant, and to become instantly blind. It is the only case of curable Glaucoma I ever heard of, for the moment that he turns his gaze upon the facts which make for the plaintiffs, he not

only recovers his sight instantaneously, but sees what nobody else can see. I commend this to the experts as an exceptional case. He did not undertake to charge Dr. Reuling with perjury, when he told you that he discovered the morning after the operation that the patient had been weeping during the night; but he sought to deprive the doctor of all the benefit to which this circumstance would entitle him, by calling your attention to the fact, and laying great stress upon it, that the defendant had not cautioned the woman against crying; and he argued that if crying was likely to be so deleterious, it was the duty of the doctor so to have cautioned her.

The doctor did not caution her expressly against crying; nor did he tell her she must not sneeze, or cough, both of which, experts have told you, might have been harmful; but the doctor tells you, and Mrs. Ruths herself fully corroborates him, that he told her to keep perfectly quiet, and lie upon her back three days without turning. Crying is the involuntary result of emotion; and if the doctor had told her she must not cry, he would probably have excited the very emotion which would produce the result. She would naturally have said, why does he tell me not to cry; he must think I have something to cry for. This reminds me of a story which was once told me by Judge Yellott of Baltimore county, We were talking of a friend who was suffering of ague, and it was remarked that almost every one had a certain remedy for it. The Judge said that there was once in the town of Bel Air, a half-witted fellow who was suffering with the ague, and a certain Major Williamson, a great practical joker, said to him: "John, if you will follow my directions, I can cure you of the chills. You must take an inch auger, go into the woods at midnight, bore six inches into a chestnut tree, turn around to the left repeating the Lord's prayer nine times, then to the right doing the same nine times, and go home and go to bed and be sure not to think of a red fox's tail for twenty-four hours." Several days after, the Major met his patient and asked him how he was. He said he was no better. The Major said: "Did you do what I told you;" and was answered yes. "Now," he said, "tell me just what you did." And John told him that he had taken the auger, had gone to the woods, had followed his directions, and then went home to bed." "But," said the Major, "you must have thought of the red fox's tail within twenty-four hours." "Think of a red fox's tail," said the poor fellow, "why confound the thing, I could not think of anything else." And so it might have been with this poor woman if told not to cry. It was the doctor's place to speak cheerfully to her, and this he did.

And now, gentlemen, let us examine for a moment the evidence in the case upon both sides, and see which is the more to be relied on, that of the plaintiffs and their witnesses, or that of the defendant and his witnesses.

It is safe to assert that the evidence of the plaintiffs and their witnesses contains within itself many things which show that the evidence cannot be true ; and, in saying this, I do not mean to impute falsehood or perjury to the parties testifying. What I desire to show is that they must have so misunderstood the doctor as that it is impossible for them now to give a true statement of what took place. Take first the question of the guarantee of a cure of the left eye. What was there that could induce a sensible man to enter into such a guarantee ? In the first place, Dr. Reuling, if he knew anything at all of his profession (and the counsel for the plaintiffs do not question that he did) must have known that it was absolutely impossible for him to carry out any such guaranty, as the left eye was irrecoverably gone already. In the next place, the operation was to be performed for nothing ; so that there was no money inducement for the guarantee. It is not pretended by any single witness that either Mr. or Mrs. Ruths, or their daughter, asked the doctor to guarantee the case, or that they said one word to him about it. But, if you are to believe their evidence, Dr. Reuling volunteered this guaranty, and danced around from one member of the family to the other, repeating it upon every occasion upon which he met any of them. What is the explanation of this ? It is that they mistook Dr. Reuling's expression of hope and his words of encouragement for more than they were intended for. The mother and daughter testified that the doctor said that the right eye was as good as his, and that in three or four days she could go about any where, to market, etc. The doctor may have said that in a short time after the operation she probably could use her right eye as well as he could his and attend to her duties as usual ; because, as you will remember, the power of direct vision is not affected by the disease at first ; and, if the operation had been successful, the doctor's words of cheer and encouragement would no doubt have been justified by the result. It was this that these poor people had construed into a guarantee.

Again. My brothers will not deny that the plaintiffs and their daughter were very materially mistaken as to another matter. They all testify that Dr. Reuling told them that the disease of Mrs. Ruths was a cold in the eye, and Ruths himself testified the doctor told him on the morning after the operation that he had operated on the left eye for a cold in the eye, and that he had operated on the right eye *for fear that she would get a cold* in that eye. I now challenge my brother Merriek, who is to reply to me, to say whether or not he believes this evidence to be true.

Judge Merrick here arose and said : “ I desire to say just here that I consider it no part of my duty, nor do I think I have any right, to tell the jury what my opinion of the case is. All that counsel have to do is to present the evidence to them, and let them decide what is or is not proven.”

MR. MORRISON.—I do not ask you to tell the jury your opinion of the case outside of the evidence ; but I take it for granted that you propose to discuss the evidence with the view to showing what you think is proved ; and I simply asked you to state your candid opinion as to this particular evidence of your client.

JUDGE MERRICK.—“ I do not think I have the right to do that.”

MR. MORRISON.—This is a degree of delicacy from the observance of which we will absolve you for this particular occasion.

JUDGE MERRICK.—“ I do not wish to be absolved from it.”

MR. MORRISON.—I must confess I do not see how you can discuss the evidence in this case without letting the jury see what you think it proves.

JUDGE MERRICK.—“ I can do so.”

MR. MORRISON.—Then you certainly possess an art which has been denied to me, and I shall wait with some curiosity for an exhibition of it.

At all events, gentlemen of the jury, my brother Merrick's colleagues do not seem to be troubled with the same delicacy, and I do not hesitate to say to you that this evidence cannot be true. Bear in mind, I do not charge wilful falsehood upon their witnesses. They are Germans (two of them requiring an interpreter upon the witness stand) and I have no doubt that they caught the second syllable in the word *Glaucoma*, and thought the doctor was speaking of a cold. The parties were, no doubt, nervously excited in visiting the doctor ; Mrs. Ruths was suffering great pain ; and it is not to be expected that they should remember with accuracy what transpired. On the other hand, Dr. Reuling entered in his book the condition of the eyes at that time, and Dr. Munnikhuysen tells you that, when the incision was made in the left eye, the vitreous humor had become aqueous, showing that the *Glaucoma* in that eye was total ; and that the right eye, upon examination, was found to be almost as hard as marble ; and there could be no doubt that it was affected with *Glaucoma* to a marked degree. I say, compare these two classes of evidence, and it seems to me that there can be no doubt in the mind of any reasonable man that the doctors are right and these poor people wrong.

Besides the plaintiffs' witnesses contradict each other. The daughter says that Dr. Reuling did not examine the right eye at all. The mother

says that he did. The father and daughter both say that the sufferings of the mother were not such as to interfere with her sleep. The mother says that they were. I certainly have no harsh or unkind word to say of this poor woman. Her sufferings appeal to my sympathies as they will, no doubt, appeal to yours; and, if by stretching forth my hand and saying, "receive thy sight," I could restore her lost vision, God knows that He, himself, never performed a miracle more gladly than I would perform this. But the days of miracles are past, and it is not to be.

And now let us consider the position assumed by the plaintiffs, that Dr. Reuling never told the patient of the disease in the right eye, and that he had no authority to operate upon that eye. And here again the undeniable circumstances surrounding the case must satisfy you that this charge was an afterthought, and was only resorted to when investigation satisfied the plaintiffs that they could not succeed upon the ground originally assumed by them, and stated in their declarations filed in the case. The declarations allege that Dr. Reuling was employed to treat the plaintiff Margretta for a disease under which she suffered, and that he treated her negligently and unskillfully; not a single word about any want of authority to operate on either eye. The patient was in the Infirmary of the defendant three weeks, and no complaint was made of any excess of authority; the defendant visited the house of the plaintiffs for weeks, where he was received as a valued friend (Ruths endeavoring to show his gratitude by telling him that he was going to raise for him a pair of pointer dogs, and bringing the little creatures in the room to gambol about the doctor's feet); after the doctor's return from the Springs he paid another visit in which he saw no change in the demeanor of the parties; and, about this time, according to Ruths' own testimony, he sent to the defendant the last five dollars of the thirty dollars which he had agreed to pay him. I ask you to consider these circumstances, and say whether it is possible to believe that down to this time the plaintiffs believed that they had any cause of complaint whatever against the defendant. Is it possible to suppose that they then believed that he had put out a healthy eye, by operating on it when he had no authority to do so, and by operating upon it simply because he was afraid she might get a cold in it? You remember the doctor's description of the next visit, when Ruths seized a gun and tried to shoot him, which the doctor thought he would have done, but for the daughter throwing herself upon her father. Something strange must have happened between that occasion and the last visit to change this humble, grateful friend into a raging and revengeful enemy. What was it? The explanation is to be

found in what Ruths then said to the defendant. Shaking his fist over his daughter's shoulder, he said, "Dr. Chisolm has told me that you put my wife's eyes out; and he told me to go for you, and I am going to do it." Did Dr. Chisolm do this or not? It furnishes an explanation of the sudden change in the feelings of this man, if he did, which must otherwise remained unexplained. At all events, it is the man's own explanation, and I think you cannot doubt that it is the true one. Where is Chisolm? He testified at the former trial; why is he not here? He is no doubt aware that testimony to this effect had been given in this case, and he is not here to say that it is not true.

You will observe also, gentlemen, that the statement at that time was, "Dr. Chisolm has told me that you put my wife's eyes out;" not that you operated on an eye that you had no business to operate on; and it is perfectly clear that whoever the enemy was that had poisoned the mind of Ruths against Dr. Reuling at that time, he had led Ruths to believe that Dr. Reuling had been guilty of malpractice by reason of negligence or unskillfulness in the operation on both of the eyes. The conduct of Ruths was natural under the circumstances; and here you have the key to the whole matter of this persecution, for that is what it is.

I have asked the question what motive could Dr. Reuling have had to guarantee a cure in this case. I now ask what motive could he have had to operate on an eye that was not diseased, or which did not, according to his best judgment, require an operation. He was to get no more pay for operating on two eyes than he would have got for operating on one. An operation on this humble patient could not add to his reputation; and there could have been in the nature of things no motive but the good of his patient, and that certainly could not have induced him to perform an unnecessary operation.

It will hardly be necessary to discuss the question whether or not she had the disease in both eyes, any further. Dr. Reuling had examined the patient carefully himself; he had consulted with Dr. Munnikhuysen; and they both carefully examined the right eye before performing the operation. The woman had gone to him sick, she wanted to get well, she placed herself in his hands as one who ought to know what was the matter with her and what was best to be done for her, and she gave him all the authority to treat her case as he thought it ought to be treated. He himself told you that he had told her that he would first perform the operation on the left eye, and in a short time afterwards on the right, and the only thing shown in the whole case is that he had not the express authority of the parties to operate at the particular moment. Every

single oculist examined has told you that he would have done the same thing under the circumstances, whether he had told the woman or not of his intention to do so ; so that if she had gone to any other oculist the result would have been the same.

My brother Merrick has said in his argument before the court, suppose a man is employed to tear down some outbuilding on a farm, and he sees a barn which he has not been employed to touch, but which, in his opinion, is so rickety and worn out that it ought to be torn down, has he the right to tear down that barn without the authority of the owner, or without saying anything to him about it ? I guess, gentlemen, that none of us would have any difficulty in answering the question by an emphatic *no*. But suppose the barn had been struck by lightning, and that you knew that the owner lay stunned and unconscious within it ; that the barn was afire, and that the only way to save the man's life was to break open the door and drag him out, would you, in such a case, hesitate to break open that door to save that life for fear that when the owner returned to consciousness he would sue you for damages as a trespasser ? You must judge which of the two cases is the more analagous to the one on trial.

Cases frequently arise in which the physician must act upon his own best judgment according to the special emergency. A case which occurred in a family of an acquaintance of mine may be in point. He had moved to Baltimore from New York, and was engaged as a traveling agent, and, at the time of which I speak, he was moving about from place to place in the prosecution of his business. During his absence, his wife, who had made but few acquaintances in Baltimore, was suddenly and unexpectedly seized with the pains of child-birth. A physician was called in who saw that the case would be one of great difficulty, and, after a certain time, became convinced that the only mode of giving the mother a chance of life would be to destroy the child. The wife was unconscious ; the husband away. There were no friends or relations with whom to consult. He sent for another physician in whom he had great confidence, and they together concluded that the operation should be performed, and they performed it. They acted as they thought best under the circumstances ; they acted without authority ; the life of the patient was lost ; but it never occurred to the bereaved husband to drag those physicians into court to answer a suit like this because they acted without authority.

Take the case of an accident here in your town on the railway. A passenger has a leg crushed and lies unconscious by the roadside. Some of the bystanders rush for a physician, who is brought to the scene. The

physician gives it as his opinion that there is a reasonable chance of life if the leg is amputated, and all around agree that this should be done as soon as possible. The doctor prepares his instruments for the operation, but, just as he is about to begin, a case like that of *Ruths vs. Reuling* occurs to his mind, where a physician was sought to be held liable in damages for acting in a great emergency without express authority ; he drops his knife ; the patient dies ; but the doctor is safe. Suppose that the husband could have been consulted, suppose that he had been present and had seen the frightful effect of the anæsthetic upon his wife, that he had been told by both of the physicians that it would never do to give it to her again, that it would be impossible to perform the operation without an anæsthetic, that she had the disease in the right eye as well as in the left, that unless an operation was performed she would inevitably be blind in a very short time, and that unless the operation was performed then it never could be performed, do you think that he would have hesitated one moment to authorize the performance of the operation ? And now suppose that there had been no previous statement to the woman of the disease in the right eye, do you think that these physicians would have violated any principle of right or propriety by assuming that if the husband had been there he would consent ; or that the wife, if she could have been consulted, would have consented ; and by doing that which they supposed the patient would gladly have authorized to be done, and which one of them told you he would have done under like circumstances if the patient had been his dearest friend ? And now following out this line of thought, let us suppose that everything happened, which did happen, except the operation on the right eye, and that that had been left undone, that the woman had returned to consciousness, and that when the husband had returned to the Infirmary the doctor had said to her in his presence : “ I have sad information to give you. Your left eye I had, of course, no expectation of saving ; I knew that the disease was in the right eye, but I did not intend to operate upon that until after a few days. When I gave you the chloroform, I thought for a time that you were dead, and it would be as much as your life is worth to administer it again. I performed the operation on the left eye, and I thought that the operation ought to be performed on the right eye, because you must now inevitably go blind in a very few days. The disease destroyed your left eye in eight days, and the time of sight now left you is very short. I say I thought that the operation ought to be performed at that time, and the chances are ninety-eight in one hundred that it would have preserved you useful sight for the balance of your life ; but I had no authority to operate upon

that eye. You were unconscious ; your husband was not here ; and I did not dare to operate even though I knew that it was the only means of preserving your sight. What would the poor woman have said to this ? She would probably have said, “ My God ! doctor, is it possible that you have left me to become blind when you could so easily have saved me. or when, at least, there was such a reasonable chance of saving me ? You knew that I had trusted you to operate on one eye where you thought it was necessary. You must have known that I would have as readily trusted your judgment as to the other. I came to you because I thought you would know what was the matter with me, and what ought to be done. You say you did know this ; you neglected to do that which might have saved me ; you have left my life to go out in darkness. Oh, doctor, how could you have been so cowardly and so cruel ! ” And in that case, gentlemen of the jury, Dr. Reuling, no doubt, would have been sued, as he certainly ought to have been, for not performing the operation.

I shall not enter into a discussion of the prayers as they apply to the evidence, but shall leave that duty to my colleagues who are to follow me. I leave the case with you, so far as I am concerned, convinced that the evidence must have satisfied you that Dr. Reuling acted in this case with an eye single to the good of his patient ; that he did just that which any other conscientious oculist would have done, and that he acted according to that rule laid down by one of the experts in his testimony, that the physician must always act with reference to the welfare of his patient, and that without regard to himself, and according to the dictates of his judgment and conscience.

MR. WOOTTON'S ADDRESS.

GENTLEMEN OF THE JURY :

There is intrinsic evidence in this case which you must consider as well as that which comes from the witnesses' mouths. It is contended by the other side that Dr. Reuling told Mrs. Ruths that only a slight operation would be necessary. Now this cannot be true ; for, if it were, why should he have required her to leave her home and friends, the tender care of a daughter and the ever watchful eye of her husband, and take up her abode among strangers in an Infirmary for three weeks ? Or, if the preparations, such as disrobing &c., were greater than the character of the

treatment warranted, why were not her suspicions aroused, and why did not she complain?

Again. Science has her truths as demonstrable as those of mathematics. The certainty of the sun's setting is no greater than that of certain symptoms indicating certain diseases. The flow of the watery substance from the left eye is proof positive that in it Glaucoma had accomplished its course, and that all sight was gone. But did the contract relate to that eye alone? The plaintiffs say yes, alleging that at the time of the operation, Mrs. Ruths could see perfectly. But this is no argument. The experts all say (and among them was one who had suffered Glaucoma himself, and whom Dr. Reuling treated and cured) that notwithstanding the diminution of vision in the upper and inner field, the power of direct sight may remain unimpaired. The left eye was lost in eight days. Is it then not natural to suppose that the right eye was affected also? Besides, Dr. Munnikhuysen was present at the examination on the 6th, and he corroborates Dr. Reuling. To be sure Dr. Munnikhuysen may be a man of clay, as my brother Packard would have you believe, but you are as able to judge of that as he.

In regard to the anæsthetic, what difference does it make whether the defendant used chloroform or a mixture of chloroform and ether? Some anæsthetic was necessary, as is evident from the condition that Mrs. Ruths was then in. Then is a man's name to be tarnished because he prefers one kind to another? Grant that Dr. Reuling used chloroform. Dr. Murdoch would have used it, and on the Continent of Europe it is used exclusively. Dr. Reuling is uncertain which he employed, because he finds by reference to his druggist and assistant that in the year 1875 he used the mixture quite extensively. Inconsistency of testimony! A case becomes desperate when counsel are compelled to resort to such expedients. Dr. Reuling a liar! He who sits high in all the peoples' hearts, an ornament to the State, an ornament to humanity; and yet, if all that is urged against him be true, a felon who should be confined to the penitentiary with the thunders of an indictment over his head! Poor doctors! We abuse them in health, but when the fell hand of disease is upon us we send for them before the minister himself.

I confess that in one way Dr. Reuling did operate without his patient's consent. He did not intend to operate on the right eye that day. He admits this; then why send to Baltimore for Judge Garey and Captain Clark? But an emergency came, and he was required to meet it. And he did meet it. Complain because the right eye was operated on? Why Dr. Gruenig testified that, if it was impossible to operate upon both, the

better practice would have been to operate on the right and let the left go. Dr. Reuling, however, was satisfied that his patient needed rest; and hence his determination first to relieve the pain, and then to preserve the sight. Mr. Packard asks what difference would three or four days have made. Dr. Munnikhuysen says a great difference; and I expect he knows as much about it as Mr. Packard.

When Mrs. Ruths consulted the defendant, and he said that an operation was necessary, and she placed herself under his care, it was for him to say when, where and how that operation should be performed. Now was it performed skillfully? With what presumption do we start? We have had here the most distinguished physicians from the city, Dr. Miltenberger, Dr. Smith, Dr. Van Bibber, Dr. Murdoch, Dr. Theobald, Dr. Gruenig (from a distance) and the wise and christian Thomas, and all of them said that they would have done as he did. They testified as to the character of Glaucoma, that it was a disease of rapid progress, (Dr. Theobald never saw a case of long duration) that Iridectomy has no effect on a healthy eye, that Mrs. Ruths' trouble was Glaucoma, thus corroborating Dr. Reuling in every particular; and yet how have the plaintiffs met this? They have not produced a single expert! Rather a Divine hand directed his, and he was joyful in his victory over darkness, until the patient herself disarranged it all.

But, the circumstances of the case remaining the same, suppose Dr. Reuling had not operated, he knew that blindness was inevitable if he did not, that the advice and practice of all whom he respected in the profession were to do so, and that if he not operate then he could not do it at all, yet he did not have the authority of his patient, and, therefore, left her to her fate—what would the poor woman have said? “Oh, doctor, why did you not! No authority! Why our relations gave it, relations no less sacred than those of penitent and priest. You know that ninety-eight operations out of a hundred were successful; why, oh why, did you not spare me the only chance of seeing the light, my loved ones and friends! Sir, you are a moral coward, you are false to your profession! Take down your diploma and tear it to the winds of heaven; take off your spoils won from many a well fought field; and, instead of my blessing, receive my curse!” Gentlemen, the doctor could not issue the fiat: “Let there be light, and there was light.” He was not infallible; and, if you find the proposition as stated in the defendant's first prayer to be true, this case is at an end.

“But,” says my friend, Judge Merrick, “had not the woman some right to say whether her orbs should roll in darkness forever?” Yes;

she need not have placed herself under the treatment of a physician if she had not wanted to; but, having done so, her judgment must yield to his; and, if you find that that confidence was not abused, your verdict must be for the defendant. What difference does it make whether Mrs. Ruths was conscious or unconscious? Had she been the former, she would have, undoubtedly, asked the doctor to do as he did. The touchstone in every case like this is, has the physician acted in accordance with the precepts and maxims received in his profession.

That a second operation was performed is clearly a mistake. With reference to the guaranty, the fact is the plaintiffs themselves do not know what it was. Lucy Ruths says that it was to cure the pain. Now there was nothing to do in the left eye but to cure the pain. And was not it cured? Besides, if only two or three days were required, why was no complaint made for weeks?

The plaintiffs' fourth prayer refers to fraud, deceit and misrepresentation. My brother Packard intimates that Dr. Reuling forged the letter "t." How base the charge! How poor the fabrication! The "t" is in black ink, while the other writing is in violet. Could so smart a man as the defendant have been so stupid? Doctor, you may be skilled as an oculist, but as a forger you are not a success. As a forger and liar you stand in the lowest rank. They who suspect you may give you some instructions. Place yourself under their tutorage and, my word for it, you will soon become skilled. My brother Packard says that you are as reckless with your tongue as with your knife, and that, he adds, is saying a great deal. Let me say to him that if he were as careful with his tongue as you are with your knife, he would return to the city a better and wiser man.

What inducement was there for the defendant to practice a lie, a cheat and a fraud? Mr. Packard says mistake; that, in the confusion, he operated on the right eye, when his intention was to operate on the left. But this, at best, is only a surmise. What, then, does it amount to when confronted by such positive contrary proof?

But, gentlemen, I have already detained you too long. My only apology is the importance of our case, which I now resign to one far abler than myself to discuss it—Colonel Marshall.

COLONEL MARSHALL'S ADDRESS.

Col. Charles Marshall succeeded Mr. Wootton and opened his address

to the jury with a brief sketch of the career of the defendant since his arrival in this country. Some eleven or twelve years ago, a stranger, he found his way to Baltimore. He was without friends, without relations, without family influence or wealth, without anything, indeed, to advance him but his own industry and skill acquired in one of the most useful departments of surgery. What is he now, this brutal butcher, this forger, this perjurer? If not at the very head, he is in the front rank of his profession. Men of distinction, whom you all know, assign to him this place—men who enjoy the unlimited confidence of the community—men to whom we commit the most sacred interests of family and friends. From far and near people come to him for relief; those who pay and those who cannot pay; they come not only from Baltimore but from all parts of the land, North, South, East and West. He conducts a large hospital where hundreds and thousands enjoy, free of charge, the benefits of his skill, of his conscientious devotion to duty. Such is the man who stands before you to-day, charged with having brutally destroyed the eye-sight of a poor woman, with misrepresentation and, to screen himself from the consequences, with perjury. This is what Mr. Packard, in the discharge of his professional responsibility, asks you to find with reference to Dr. Reuling. As described by Mr. Packard, he is a monster who should be driven from society into the penitentiary. To slash and cut a poor, innocent woman! I want you to see it as I see it—this brutal, reckless attack upon what is dearer than sight. When character and reputation stand in the way of cupidity and greed, let them down!!

Gentlemen, my colleagues have discussed this case with such masterly ability that I am left only one or two points to consider. My brother Mason told you that, when his attention was first called to this case, he made a thorough investigation of it, and came to the conclusion that an unparalleled outrage had been perpetrated. This is his personal opinion, but I am willing to excuse my brother for expressing it, as it plays a very important part in this case. The declaration was filed in December, 1878. This declaration, drawn by Mr. Mason, contains not what he learned from his clients merely, but what he assured himself was true. He then proceeds to state what the wrong is: "For that the plaintiff, at the defendant's request, retained and employed the defendant, &c., to attend to, &c., and endeavor to cure, &c." No mention of guaranty. (The plaintiff's third prayer was here read); but the Court added, "unless the jury find that the employment of the defendant was as stated in the defendant's first prayer." Thus there is a change of base from

"a disease under which she then labored" to "a trouble in the left eye;" and, reflected counsel, if we can throw in a little bit of forgery, perjury and brutality, we can get ten thousand dollars out of him.

The question was asked of several witnesses if Dr. Reuling should not have told Mrs. Ruths of his intention of operating on the right eye. No, says the Court, he was to use his discretion. He might have done so, but he was under no obligation. If, gentlemen of the jury, you believe that he was employed to treat her for a disease, it makes no difference whether he told her that he was going to operate on her left eye or not.

But here is another declaration by the husband, an amended declaration, the fruit of more mature study, of more intelligence, of more deliberation. It is charged that Dr. Reuling was employed to treat a disease, &c., and that he did so in an ignorant, unskillful and negligent manner. Now if this is their charge, the defendant is clearly entitled to your verdict, for it is not pretended that Mrs. Ruths was not treated with requisite care and skill. We have produced testimony to show that not ordinary but extraordinary skill was used.

But what of this new case which was first heard of at the November trial, nearly four years after the operation had been performed? Is there any evidence to support it? Why did Mrs. Ruths go and see Dr. Reuling? "I went," she said, "to consult him about my eye." You will observe, gentlemen, that Sunday is an unusual day for such a visit, although not at all an unusual one on which to get one to testify in a case. I merely mention this as indicating that Mrs. Ruths' sufferings were severe. She and her daughter both say that Dr. Reuling spoke of a slight operation, remarking that she had a slight cold in the left eye, and that he operated on the right eye to keep her from getting a cold. But was not the right eye diseased on the 4th of July, the date of their first visit? Here is the book; examine it, and you will find the entry which has been already read to you. But says Mr. Packard, the "t!" the "t!" The cry of fraud is raised—the defendant is actually charged with having put it there for the purposes of this case. And yet how natural is his explanation! Why, gentlemen, the book is full of just such suspicious entries. Under a name here are the words, "Won't pay his bill. Make him." Very brutal suggestion that! Another specimen of grass-hopperage! Dr. Munnikhuysen remembers distinctly that Dr. Reuling pronounced Mrs. Ruths' a desperate case of Glaucoma.

Now was the disease a cold in the eye, or was it Glaucoma? You recall the testimony of Dr. Munnikhuysen that, when they cut into the

left eye, there flowed from it a substance which, instead of having, as it naturally has, the consistency of jelly, was thin and watery. In other words, it had degenerated; and this state, as was testified to by all the experts, indicated that there was Glaucoma, that it had run its course, and that, in the language of Dr. Gruenig, sight was nil. Dr. Munnikhuysen also testified that he found Glaucoma in the right eye while she was under the influence of chloroform. Can you doubt, then, what the disease was? What is the testimony that it was a cold worth in comparison with that offered by the surgeons? Miss Ruths says that Dr. Reuling said that he would operate on the left eye only to relieve the pain. So the doctor says; but she is clearly mistaken in her testimony that there was nothing the matter with the sight. And Miss Ruths can be mistaken. She testified that her mother sewed the day preceding the operation. Mrs. Ruths said four days before.

It being conceded that Mrs. Ruths went to consult Dr. Reuling, and that, contemporaneously with his examination of her eyes, he made an entry of the result, and he being supported in all this by Dr. Munnikhuysen, is it conceivable that he would have told Mrs. Ruths that she had only a slight cold in her left eye?

The defendant is reported by Mrs. Ruths as saying that only a small operation would be necessary. Yet note the preparation. It is not performed on that day; she is told to return on the 6th. Her husband is sent home; is not allowed to remain, lest his presence be disadvantageous; she is taken to a room, is undressed; indeed, all the arrangements for a serious and grave operation are made. She does not say anything, does not complain, although she is kept at the hospital three weeks, where her husband and daughter visited her daily. Dr. Reuling afterwards visited her at her home; his arrival is made the occasion of a family gathering; two pointer dogs are presented to him; and the last payment of five dollars is made in September. Must there not be some limit to our credulity? "Doctor, you have put my wife's eyes out, but here are five dollars." Gentlemen, it does seem as if stronger proof is necessary. I cannot bring myself to believe but that the charge laid in this declaration is the one that they intended to bring, and, if it is, the plaintiffs are not entitled to recover if you find that the employment was as stated in the defendant's first prayer.

I can hardly trust myself to speak of the charges of fraud, &c., nor will I discuss the question of guaranty, for it involves the idea that the doctor is a natural born fool. Therefore, gentlemen, I leave the case in your hands. Mrs. Ruths was doomed to blindness; the best efforts of

human skill were useless. Nothing could prevail against the fiat of Omnipotence.

JUDGE MERRICK'S ADDRESS.

The closing argument in the case was made by Judge Merrick in behalf of the plaintiffs. He addressed himself first to the question of guaranty. Was there a guaranty, and if so, was it violated? He contended for an affirmative answer to both questions. He reviewed the testimony of the Ruths, showing with what consistency they testified that the defendant did say that he would cure Mrs. Ruths in two or three days, in which time she would be able to attend to her duties, go home, go to market, &c.

And now, gentlemen, I ask what was the extent of Dr. Reuling's authority? The woman has described her condition to you. She says that her left eye only was affected, that it felt as if there was sand in it. She could see with it, could read with it, the only trouble being that it occasionally pained her. This was the left eye. The right eye, she says, was perfectly well. Now unless the defendant informed her (which he did not do) that the malady had extended to it also, by what authority can he be said to have operated? Plainly, so far as that eye is concerned, the idea of agency was not involved. The two eyes are independent. In the wisdom of Providence they have been made so, and authority to do something with one of them is no authority to treat the other likewise. But we are told that the agent knew all this; that he knew that the right eye was affected as well as the left. Then it was his solemn duty to say so to his patient. Can he, with all the skill and the knowledge on his side, be said to have been authorized by her to do what she knew absolutely nothing about? In proportion to the confidence she placed in him, in that proportion did she merit his frankness. This was the grave error on the part of the defendant in this case. I do not ask you to consider Dr. Reuling a monster or a perjurer; nor will I say a word to blacken his fame. What I charge is that he made a mistake, of which our clients have suffered the consequences, and for which they are entitled to redress. It is too common a thing in society for persons clothed with some small authority to arrogate to themselves more. You see it in the political world, in conventions, in churches. So it is in the professions. A patient becomes the doctor's slave; individual opinion goes for nothing; you are to do just as he directs. But this pretension is wholly unfounded. The

fact of your going to consult a physician does not give him absolute dominion over you. The measure of his authority is that which you erect. Then what is this case? Dr. Reuling, at the head of a medical brigade, comes into this court, asserting that he and they have absolute discretion to do with your bodies as they please, whenever you go to them for advice. But the court says that they have not. It holds that the general principles of agency relating to others relate to them, and that if they do what they are not delegated to do, they are responsible. And why not? To what peculiar privileges are they entitled? Why should they not be judged and held accountable as other men? The attorney is perhaps the agent with the most liberal powers, and yet even his are restricted; he cannot compromise a case.

With reference to the facts on this point, you have one witness against three. Dr. Reuling denies that he said that there was nothing the matter with the right eye. On the other hand, the Ruths affirm positively that he did, and that they were astonished at finding that an operation on it had been performed. But, gentlemen, even admitting that the malady was in that eye, this does not affect the issue. If Dr. Reuling was not authorized to operate on it, he had no right to do so, whether it was diseased or not; and we are entitled to compensation from him for having destroyed the sight which, otherwise, might have lasted eighteen months or two years. But how can we measure what this is worth? She would not have sold it. All the gold of California could not have bought the pleasure which she had in the sight of her loved ones and all that she held most dear. And yet money is the only return that can be made. Mrs. Ruths has lost much, as has her husband, and they are entitled to a liberal verdict. I do not appeal to your sympathies at the expense of your intellect; but when logic and feeling are on the same side, do not hesitate to follow in their leadership. Remember the poor woman's cry when asked if she could see—"Nein, nein, I cannot see no more." Remember it, and by your verdict help to soften the anguish which it so pathetically expresses.

The jury, at the close of Judge Merrick's address, retired; and, after remaining out one hour, returned with a verdict in favor of Dr. Reuling.

Thus closed a memorable trial. During its progress the court-room was thronged with spectators, many of whom afterwards congratulated the doctor upon his fortunate issue out of so trying an ordeal.

EXTRACTS FROM DR. CHISOLM'S TESTIMONY IN THE FIRST TRIAL OF
THIS CASE.

"Crying might effect the result of the operation of Iridectomy, but is not likely to; so with laughing, moving about and sitting up in bed &c."

HYPOTHETICAL CASE STATED:

"Doctor, if a person were to consult you about a trouble in the eye, which, on examination, you find to be Glaucoma, and you find that the disease is total in one eye and progressive in the other, and you were to tell the patient that an operation would be necessary, (speaking of the operation in general terms,) and were to tell her you would operate on the left eye on that day, and were to say nothing about operating on the right eye, although intending to do so in two or three days, and were to take her to the operating room, and were to render her unconscious by administering chloroform to her, and if, after a few inhalations she were to collapse suddenly and so completely as to lead you to believe she was a corpse, and if after a consultation with a competent assistant, you were to conclude that you could never administer chloroform or any other kind of anæsthetic to her again, and yet were to feel convinced that the operation of Iridectomy could not be performed upon her without some anæsthetic, if no friend were around, the woman herself unconscious, and no one present to consult with but an assistant, whom, however, you consider a skilled oculist, and if after operating, as you had intended, on the left eye, you and your assistant were to examine the right, and to find that it was much harder than it was at the first visit of your patient two days before, and if the left eye had accomplished its course in eight days, and you were convinced that the right, unless operated upon, would do the same, and that unless the operation was performed then and there it *never* could be performed, would you operate on the right eye?"

DR. CHISOLM.—I would not assume the responsibility."

